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Federal Register

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highlights

IMPORTANT NOTICE TO FEDERAL AGENCIES

For information on billing codes required on all documents submitted for publication in the Federal Register, see back cover of this issue.

MANDATORY CRUDE OIL ALLOCATION

DOE/ERA establishes standby allocation and refinery yield control programs; effective immediately; comments by 3-16-79 (Part VIII of this issue) 3418

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Treasury/FS amends rules on redemption values, investment yields, and extended maturity periods for Series E and H; effective 1-16-79 (Parts II and III of this issue) 3364,3371

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-37-M]

Title 7—Agriculture

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to set forth the terms and conditions of a potato diversion program for the 1978 crop of Russet potatoes. This rule sets out the provisions of eligibility for payments, the need for approval of diversion by USDA, the rate of payment to producers, and other conditions of participation. This rule is necessary to inform eligible producers of this new program's requirements.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

D. A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447-2781.

SUPPLEMENTARY INFORMATION: Following unusually good weather during the growing and harvesting season, a surplus crop of potatoes for fall harvest was produced in 1978. The surplus, consisting principally of Russet potatoes, is concentrated in Idaho, and to a lesser extent in Washington and Oregon. In these three States, production consists largely of Russet type potatoes. Because of the surplus in the Pacific Northwest, market prices for Russet potatoes throughout the United States are depressed. In addition to the Pacific Northwest, the following States produce significant qualities of Russet potatoes: Colorado, Maine, Michigan, Minnesota, Nevada, North Dakota, Wisconsin and Northern California.

The 1978 crop produced in the Pacific Northwest States in Idaho, Oregon, and Washington was 176.2 million hundredweight, up 7 percent from the 1977 three-State total of 164.4 million hundredweight. The almost 12 million hundredweight bulge in production, compared with a year earlier, has resulted in lower prices for fall crop potatoes now in storage and for marketing from January 1, 1979, into late spring of 1979.

An impact analysis statement for a Russet potato diversion program has been prepared and provides specific detail of the need for the diversion action, the groups impacted, the options considered, Government cost, the likely effect on grower and retail prices, and the duration of the program.

Many Russet potato producers indicate that they are on the brink of economic disaster. Producers of potatoes with small acreages are more adversely affected by the depressed market conditions compared with those with large acreages because of their limited access to the capital needed to carry on their farming operations. It is the judgment of the USDA that the surplus ranges from 7 to 9 million hundredweight and that action is needed to divert surplus potatoes to enhance potato prices.

Options considered for disposing of the potatoes consisted of Government aided and commercial export sales, donations to school lunches, animal feed, conversion to alcohol, starch, and fertilizer, and natural dehydration for animal feed.

Due to large potato crops in most parts of the world where potatoes are consumed, export sales opportunities are limited this season. However, the Department is considering encouraging the export of dehydrated potatoes and conversion of potatoes into alcohol. This Department has also made heavier than usual donations of potato products to schools and elderly feeding programs this season. However, this has had a limited impact on the heavy domestic supply of potatoes.

Limited starch facilities are available and will be used where it can be certified that specific operations are not in violation of any water quality regulations of local or Federal Governments. In addition to limited outlets for starch manufacture, livestock feeding either for immediate use or spreading on pastures for feeding later in the Spring are the most expedient means of diverting potatoes. Accordingly, in order to provide an incentive to Russet producers to divert their potatoes to livestock feeds and starch manufacturing outlets, payments are being offered to eligible producers in Russet-producing potato States to encourage such diversions. These payments are being offered over a period of sixty days, beginning early in 1979. The diversion payments will compensate potato producers for low prices obtained from sales of potatoes for livestock feed and starch manufacture.

A limitation of 60,000 hundredweight has been set for each diverter of potatoes under this program. This quantity was determined from the average potato production per farm in the area where most program activity is anticipated. As indicated above, Russet potato producers are suffering and need immediate relief. While this program will strengthen market prices, it may take some time for the full effect of the program to be felt in the market. Accordingly, it is important that all producers have an opportunity to secure immediate relief by participating in the program. The limitation of 60,000 hundredweight will allow all potato producers who so desire and who are qualified to participate in the program to obtain payments from this activity and thereby alleviate their critical situation.

Feeding potatoes to livestock can be expected to be carried out under variable conditions under this program. In this respect the feeding requirements of the program attempt to encompass all generally used methods. It is understood that some feeding arrangements will be temporary and unsophisticated and therefore less efficient in limiting waste than some others.

In computing the permitted rates of spreading potatoes on pasture land where livestock are grazing, consideration was given to the waste that will occur through the animals trampling the potatoes spread on the ground. Similar consideration will be given by USDA when determining whether adequate pasturing by livestock has occurred under the freeze-thaw method of feeding.

Diverters who are indebted to USDA or to any other agency of the United States are subject to the creditor agency making a claim against any amount due under the program. However, the diverter has the right to contest the justness of the indebtedness involved either by administrative appeal or legal action.

The payment program will be offered in two periods of 30 days each. The payment will be higher during the first period as compared with the second period to encourage immediate movement into the diversion program so as to achieve maximum price enhancement.

Immediate action is necessary to relieve the commercial potato markets from the price-depressing impact which persistently exists when potato supplies are in surplus. Accordingly, Dr. Donald L. Houston, Acting Administrator, FSQS, has determined that this document represents an emergency situation requiring immediate program action without a notice and comment period, that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1978) that it is not possible to publish these regulations in proposed form and allow 60 days for public comment. However, the public is invited to submit written comments concerning this program to: Executive Secretariat, Attention: Annie Johnson, Food Safety and Quality Service, Room 3167, South Agriculture Building, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, comments must be received by January 29, 1979. The program will be reevaluated on the basis of comments submitted. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Accordingly, 7 CFR Chapter XXVIII is amended by adding a new subpart to Part 2880 to read as follows:

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

Sec.

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2880.45 Amendment and termination.

AUTHORITY: Sections 2880.25 to 2880.45 issued under sec. 32, 49 Stat. 774, as amended (7 U.S.C. 612c).

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

§ 2880.25 General statement.

In order to encourage the domestic consumption of fresh Russet potatoes by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Public Law 320, 74th Congress, as amended, offers to make payment for the diversion for use as livestock feed or starch manufacture of 1978 crop Russet potatoes, subject to the terms and conditions set forth in this subpart. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, Washington, D.C. 20250.

State Agricultural Stabilization and Conservation Committees in the respective States.

County Agricultural Stabilization and Conservation Committees in the respective counties.

§ 2880.26 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Quality Division, Food Safety and Quality Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through Agricultural Stabilization and Conservation County Committees, hereinafter referred to as the State and County Committees. Each State Committee will authorize one or more employees to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. The State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 2880.27 Area.

This program will be effective in all areas of the country where Russet potatoes are produced and sold.

§ 2880.28 Period of program.

This program will be effective from the date of this announcement and continue for sixty days.

§ 2880.29 Rate of payment.

The rate of payment per 100 pounds of potatoes in each lot which meet the requirements of Specification A as defined in § 2880.34 will be two dollars per hundredweight for potatoes diverted from the inception of the program through a period of 30 days; and one dollar and seventy-five cents for potatoes diverted thereafter to termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

§ 2880.30 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation producing Russet potatoes located in the continental United States, (a) who executes and files an application for participation on the prescribed form, (b) who files a performance bond as provided in § 2880.32, (c) whose application is approved, (d) who diverts his fresh Russet potatoes within the States specified in the approved application, directly or through any other person or persons in a volume not exceeding 60,000 hundredweight, (e) who files a claim as provided in § 2880.38, and (f) who complies with all other terms and conditions contained in this subpart.

§ 2880.31 Application and approval for participation.

Producers desiring to participate in this program must submit a written application on Form ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program". Each applicant must submit a performance bond as provided in § 2880.32. Applications and bonds should be submitted to the County ASCS Office for the county within which the potatoes are to be diverted. Applications will be considered in the order received and in accordance with the availability of funds. Applicants will be notified of the approval, in whole or in part, or nonapproval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided*, That such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements

hereto. An approved applicant is hereinafter referred to as "the diverter".

§ 2880.32 Performance bond.

In order to protect the Government's interest, each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock or for starch manufacture by methods prescribed in § 2880.37. The bond shall be executed on Form ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed or starch manufacture. USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 2880.33 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before the termination date of the program.

§ 2880.34 Definition of diversion.

Diversion of potatoes for use as livestock feed or starch manufacture as used herein means the initial processing of potatoes for feeding to livestock or for starch manufacture by cutting, chopping, ensiling, slicing, gouging, crushing, cooking or spreading for alternate freezing and thawing to the degree that the general appearance of the lot as a whole has been damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes.

§ 2880.35 Diversion specifications.

Russet potatoes in connection with which payments will be made, will be the potatoes in each lot which meet the requirements of "Specification A", which potatoes are hereby defined as meaning "Cellar Run" potatoes [1] which are equal to or better than the quality requirements of U.S. No. 2 Processing Grade (7 CFR Sec. 51.3411), except that they must have a minimum diameter of 1½ inches and no tolerance will be allowed for defects or undersize. Also, fry color, glucose content, and specific gravity determination are hereby waived under this grade determination. Potatoes which by clipping ends or second growth could be made to meet the quality requirements of U.S. No. 2 Processing Grade need not be so clipped to be classed as Specification A, but the weight of the portions which customarily would be clipped off shall be deducted in determining the weight of those potatoes in the lot which do meet the requirements of Specification A.

§ 2880.36 Inspection and certificate of diversion.

Prior to diversion, the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potatoes. The diverter shall be responsible for requesting and arranging for inspection so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 2880.34. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates thereof shall be borne by the diverter. Certificates shall be prepared on Form ASCS-118, "Invoice and Certificates of Inspection and Diversion."

§ 2880.37 Methods of utilization.

Following the initial processing as specified in § 2880.34, the potatoes must be fed to livestock or used for starch manufacture by one or more of the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. In addition to other program requirements, the following special terms and conditions will be applicable to such method:

(1) The potatoes must be spread on pasture consisting of sod or other grassland. The potatoes may not be spread on land set aside under the Feed Grain Program, the Wheat Program, or under a Water Bank Program agreement. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate in effect at the time of initial processing, but fifty percent of the payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place.

(d) Utilizing the potatoes for starch manufacture in a starch manufacturing plant approved by USDA. Diversion payments will be computed at the rate in effect at the time of initial processing, but payment to diverters by USDA will not be made until it is determined by USDA that conversion to starch has taken place.

§ 2880.38 Claim for payment.

In order to obtain payment, the diverter must submit to the State ASCS Office which approved his application a properly executed "Invoice and Certificates of Inspection and Diversion", Form ASCS-118, and (except where the diverter is the feeder) a certification of receipt by the ultimate feeder or starch manufacturer. All such claims shall be filed not later than one calender month after the termination date specified in the applicable approved application.

§ 2880.39 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes or starch manufacture, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments made in connection with such potatoes, shall refund to USDA any payment made in connection with such potatoes, and shall be liable to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed or starch manufacture purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that: (a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed or starch manufacture purposes, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c)

[1] "Cellar Run" potatoes are hereby defined as storage potatoes which have not been sorted.

the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 2880.40 Inspection of premises.

The diverter shall permit authorized representatives of USDA at any reasonable time to have access to his premises and any other premises on which diversion, livestock feeding or starch manufacture is to take place, to inspect and examine potatoes which are being diverted, used, or stored for diversion or use, and to inspect and examine the facilities for diverting, storing and using potatoes in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 2880.41 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed or starch manufacture, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to him under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

§ 2880.42 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 2880.43 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Public Law 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 or ASCS-66 "Notice of Assignment", which form must be used in giving notice of assignment to USDA. The "Instrument of Assignment" may be executed on Form CSS-347 or ASCS-36, or the assignee may use his own form of assignment. The forms may be obtained from the State ASCS Office or the Washington office shown in § 2880.25.

§ 2880.44 Officials not to benefit.

No member of or delegate to Congress or Resident Commissioner, shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 2880.45 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

An Approved Final Impact Statement has been prepared and is available from: D. A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447-2781.

NOTE.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: January 11, 1979.

DONALD HOUSTON,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 79-1499 Filed 1-15-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-77-17]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to Mandatory Petroleum Price Regulations Concerning Crude Oil and Product Exchanges

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Regulations and Further Notice of Rulemaking; Correction.

SUMMARY: FR Doc. 78-35476, appearing at page 59810 in the FEDERAL REGISTER of December 21, 1978, adopted certain amendments to the Mandatory Petroleum Price Regulations to provide for the treatment of costs for crude oil or refined petroleum products received in exchanges. There were certain inadvertent errors in the notice regarding the effective date of the interim regulations, which is intended to be February 1, 1979 rather than January 1, 1979. Therefore, the first incomplete paragraph at the top of column 1 appearing on page 59811 and the 21st line of the first complete paragraph of column 2 appearing on page 59813 are corrected in each case by deleting the date, "January 1, 1979," and inserting in lieu thereof "February 1, 1979."

FOR FURTHER INFORMATION CONTACT:

Jeff Conrad, 202-633-8820.

Issued in Washington, D.C. January 9, 1979.

DAVID J. BARDIN,
Administrator, Economic
Regulatory Administration.

[FR Doc. 79-1546 Filed 1-15-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0159]

PART 226—TRUTH IN LENDING

Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Effective date of official staff interpretation suspended; its text reprinted for public comment.

SUMMARY: The Board is suspending the effective date of official staff interpretation FC-0159, regarding § 226.9(g)(6) exception to general rescission requirements, published on December 5, 1978 (43 FR 56877) and is republishing it for public comment. The agency is taking this action in response to a request for public comment submitted in accordance with 12 CFR Part 226.1(d)(3). The letter requesting a comment period is published below and immediately precedes the text of the official staff interpretation.

DATES: The effective date of FC-0159 is suspended until further notice. Comments must be received on or before February 15, 1979.

ADDRESS: Comments (including reference to FC-0155) to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) The effective date, January 4, 1979, of official staff interpretation FC-0159 is suspended in accordance with 12 CFR Part 226.1(d)(2)(ii). The text of the letter requesting the opportunity for public comment appears below. This interpretation will not go into effect until final action is taken. Notice of such action will be published in the FEDERAL REGISTER in approximately 60 days and will become effective upon publication.

(2) The text of official staff interpretation FC-0159 is republished for comment with the exception of language pertaining to its former effective date. Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than (30 days from publication in the FEDERAL REGISTER). Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(4) After comments are considered, this official staff intepretation may be amended, may be rescinded or may remain unchanged. Final action regarding this official staff interpretation will appear in the FEDERAL REGISTER.

(5) Authority: 15 U.S.C. 1640(f).

CONSUMERS UNION,
PUBLISHER OF CONSUMER REPORTS,
Washington, D.C., January 3, 1979.

MR. THEODORE ALLISON,
Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20051.

DEAR MR. ALLISON: Consumers Union* requests that the effective date of proposed Federal Reserve Official Staff Interpretation No. FC-0159[1] be suspended and that the interpretation be republished for public comment in accordance with Regulation Z, Section 226.1(d)(2)(ii).

The Federal Reserve Board recently amended Regulation Z, Section 226.9 to abolish consumers' rights, provided by Section 125 the Truth in Lending Act, 15 U.S.C. § 1635 ("TILA"), to certain disclosures and to a three-day cooling off period for a specified category of consumer credit transactions. That category encompasses mortgage-secured open end credit transactions involving separate, unrelated sellers and creditors.[2] Now the Board's staff proposes to further diminish consumer disclosure and rescission rights by interpretation of the above regulation. Its proposed interpretation would abolish those rights for two party transactions involving open-end non-sale credit, e.g., cash advances.

As you know, Consumers Union filed a lawsuit challenging the regulation that the Board staff now proposes to extend by interpretation.[3] We are particularly disturbed that the Board is endeavoring to expand this controversial regulation while this suit is pending and before the Court has an opportunity to determine the legality of the regulation.

We oppose the proposed interpretation for the same policy reasons we oppose the Board's regulation. Both abolish important consumer rights designed to protect homeowners from casually or unknowingly encumbering their homes. Both increase consumer vulnerability to default by encouraging lenders to extend larger lines of credit, not on the basis of increased ability to pay, but because of equity in homes. Both allow the unfair practice of taking a security interest in the home for small loans. And, both contravene the the Board's recent efforts to reduce use of credit to control inflation. The abolition of consumer rescission rights encourage expansion of a form of credit that is more dangerous for consumers.

We believe the the staff lacks authority to issue the proposed interpretation. The staff's authority is no greater than that of the Board. Under TILA, the Board may only prescribe regulations to carry out the purposes of the Act. The proposed interpretation does not further any purposes of TILA, but rather thwarts important objectives of the Act.

Furthermore, the proposed interpretation is inconsistent with the Board's regulation. That regulation creates an exemption from the rescission provisions only if "the creditor and seller are not the same or related persons." Thus, the exemption would appear to apply only in three-party transactions involving a seller, creditor and consumer. This reading of the regulation is consistent with the justification given for its promulgation. A staff memorandum dated June 16, 1978, on the then proposed regulation states at page 6:

> Some open end credit transactions involving three parties, unlike two-party transactions, present both conceptual and operational problems when subject to the right of rescission.

The Board apparently believed that those problems justified abolishing consumer rescission rights for three-party transactions. But, with two-party transactions involving a creditor-seller and a consumer, the Board preserved those consumer rights apparently because two-party transactions are more susceptible to unfair and deceptive practices and because these creditors could more easily comply with the Act's rescission provisions. Similarly, with two-party, non-sale loan transactions, creditors can easily comply with TILA requirements. Thus, the justification given for the Board's reduction in consumer rights simply does not apply. No other reasons for the proposed additional reduction in consumer rights are given by the Board's staff. Thus, the proposed interpretation appears to be unfounded.

In any case, the issuance of the proposed interpretation by the staff violates the Board's own procedures set forth in Regulation Z, 226.1(d)(4)(i). An interpretation of so controversial a nature, which raises such significant policy questions must be issued by the Board, not the Board's staff.

In conclusion, Consumers Union urges that the proposed interpretation not be adopted. That interpretation would destroy important consumer rights and contravene congressional intent. The absence of any

*Consumers Union is nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide information, education, and counsel about consumer goods and services and the management of the family income. Consumers Union's income is derived solely from the sale of *Consumer Reports*, its other publications and films. Expenses of occasional public service efforts may be met, in part, by nonrestrictive, noncommercial grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports*, with over 2 million circulation, regularly carries articles on health, product safety, marketplace economics, and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[1] See 43 Fed. Reg. 56877 (December 5, 1978).

[2] See 43 Fed. Reg. 34113 (August 3, 1978).

[3] *Consumers Union* v. *Miller*, Civil No. 78-2188 (D.D.C. 1978).

justification for this infringement on consumers rights renders the proposed interpretation particularly offensive. The Board should instead fulfill its statutory responsibility to advance only the purposes of the Truth in Lending Act by rejecting the proposed interpretation.

We request that this letter be published with the republished proposed interpretation so that the public can understand our reasons for requesting republication.

Sincerely,

ELLEN BROADMAN
Attorney

EB: cvs

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

§ 226.9(g) Creditor that extends nonsale credit directly to customer under open end credit plan may qualify for § 226.9(g)(6) exception to general rescission requirements.

OCTOBER 13, 1978.

This is in response to your letter of * * *, in which you request an official staff interpretation of the Board's recent amendment to the rescission provisions of Regulation Z. That amendment, § 226.9(g)(6) of the regulation, provides an exception to the regulation's general requirements regarding the right of rescission for individual transactions under an open end credit account, provided the specific requirements of the amendment are satisfied.

Specifically, you ask for clarification of § 226.9(g)(6)(i). Under that provision, the exception from the right of rescission for individual transactons under a open end credit account applies (assuming the amendment's other requirements are met) provided "[t]hat the creditor and the seller are not the same or related person." You are concerned that this provision may be interpreted to mean that, for the exception to apply, an open end credit transaction must involve a *seller* that is not the same person as the creditor or related to the creditor. Under such an interpretation, the exception could not apply to a nonsale open end credit transaction (e.g., a cash advance loan made pursuant to an open end line of credit).

The staff is of the opinion that, in adopting this amendment to Regulation Z, the Board intended to allow creditors to qualify for an exception to the regulation's general rescission requirements for any open end credit transaction, whether involving sale or nonsale credit, except for the limited class of transactions in which the creditor of an open plan is the same person as or is related to the seller of property or services purchased by means of the plan. Thus, for example, a creditor of an open end plan could extend nonsale credit under the plan directly to a customer (in which case the creditor and the *lender* would be the same person and there would be no *seller* involved in the transaction at all) and could still qualify for the amendment's exception.

In accordance with your request, this is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed above.

Board of Governors of the Federal Reserve System, January 9, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1486 Filed 1-15-79; 8:45 am]

[6714-01-M]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

Waiver of Form 83 Requirement With Respect to Applications for Insurance by "Phantom" Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The FDIC is amending sections 304.3(a) and 304.3(f) of its regulations to dispose of Form 83 requirement with respect to applications for insurance by "phantom" banks. The purpose of Form 83 requirement is to inform the FDIC of the general character of management of the bank seeking insurance. "Phantom" banks are created for the sole purpose of merging with existing banks; since the directors and officers of "phantom" banks are usually identical to those of the operating banks, the FDIC has determined that under the circumstances, Form 83 does not serve any useful purpose, and the requirement is therefore waived.

EFFECTIVE DATE: This amendment is effective on January 16, 1979.

FOR FURTHER INFORMATION, CONTACT:

Roger A. Hood, Assistant General Counsel, Legal Division (202-389-4628), Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) requires the FDIC to consider the general character of management of an applicant bank in its decision to grant or deny insurance to that bank. In accordance with this section, the FDIC requires, in sections 304.3(a) and 304.3(f) of its regulations, that each individual director and officer of a proposed bank seeking insurance execute a financial statement (Form 83).

Questions have recently been raised about the necessity of providing such information in "phantom" bank applications. A "phantom" bank is created solely to merge with an existing bank, usually to facilitate its acquisition by a bank holding company. It does not engage in any banking business prior to the merger transaction and the proposed directors and officers of the "phantom" bank are nearly always the same persons as those of the operating bank to be acquired. When the regulation was written, there was no need to make an exception for "phantom" banks since such banks were not yet created.

The FDIC has reviewed its regulations, and has determined that "phantom" bank applications for insurance need not be accompanied by Form 83. The stated purpose of requiring financial statements is for the benefit of the Board of Directors of the FDIC in determining, with respect to the applicant bank, the general character of its management. In the case of phantom bank transactions, the general character of the operating bank is well-known either to the Corporation or to one of the other Federal supervisory agencies. Thus, it would not be necessary to require this information in applications for insurance involving "phantom" banks.

The FDIC has determined that notice of, public participation in, and delaying the effective date of this proposed amendment are unnecessary since the effect of the amendment is to relieve a restriction on banks. The requirements of §§ 553(b) and 553(d) of Title 5 of the United States Code, and §§ 302.1, 302.2, and 302.5 of FDIC's regulations are, therefore, inapplicable.

Accordingly, 12 CFR 304.3 is amended by revising the fourth sentence in paragraph (a), adding footnote 1 after paragraph (a), revising the last sentence in paragraph (f) as set forth below and by redesignating footnote 1 to paragraph (s) as footnote 2.

§ 304.3 Forms and instructions.

* * * * *

(a) * * * Applications filed on Form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association. In addition, applications filed on Form 82 by proposed banks other than nonmember banks formed in connection with "phantom" bank mergers [1] must be accompanied by the requisite number of properly executed Forms 83 * * *

* * * * *

(f) * * * The requisite number of properly executed and signed Forms

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[1] As used in paragraphs (a) and (f) of this section, the term " 'phantom' bank merger" applies to any merger or other transaction in the nature of a corporate reorganization which, in and of itself, would have no effect on competition.

83 must accompany each application on Form 82, Form 82-M, Form 84, or Form 84-M; except that with respect to applications on Form 82, Form 83 is not required from proposed nonmember banks formed in connection with "phantom" bank mergers.

* * * * *

(Secs. 5-8, 9, 10, 18, 19, 64 Stat. 876, 879, 881, 882, 891, 893 (12 U.S.C. 1815-1820, 1928, 1829).)

By direction of the Board of Directors dated January 10, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION.
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-1487 Filed 1-15-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2941]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Nelson Bros. Furniture Corp.

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Chicago, Ill. retailer of household goods to cease misrepresenting or failing to make relevant timely disclosures regarding the cost, savings, condition and availability of advertised merchandise; employing bait and switch tactics, or any other unfair or deceptive sales technique in the advertising and sale of its products. Additionally, the order provides customers with the right to arbitration for unresolved disputes and requires the firm to maintain prescribed business records for a period of three years.

DATES: Complaint and order issued December 8, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, Chicago Regional Office, 3R, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, June 29, 1978, there was published in the FEDERAL REGISTER, 43 FR 28210, a proposed consent agreement with analysis In the Matter of Nelson Brothers Furniture Corp., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-advertising Falsely or Misleadingly: Section 13.10 Advertising falsely or misleadingly; 13.10-1 Availability of merchandise and/or facilities; § 13.35 Condition of goods; § 13.75 Free goods or services; § 13.125 Limited offers or supply; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-10 Bait; 13.155-35 Discount savings; 13.155-75 Product or quantity covered; 13.155-100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts. Subpart-Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; 13.533-5 Arbitration; 13.533-20 Disclosures; 13.533-25 Displays in-house; 13.533-45 Maintain records. Subpart-Disparaging Products, Merchandise, Services, etc.: Section 13.1042 Disparaging products, merchandise, services, etc. Subpart-Failing to Maintain Records: Section 13.1051 Failing to maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: Section 13.1572 Availability of advertised merchandise and/or facilities; § 13.1595 Condition of goods; § 13.1625 Free goods or services; § 13.1695 Old, secondhand, reclaimed or reconstructed as new; § 13.1740 Scientific or other relevant facts. —Prices: Section 13.1778 Additional costs unmentioned; § 13.1779 Bait; § 13.1825 Usual as reduced or to be increased. —Promotional Sales Plans: Section 13.1830 Promotional sales plans. —Services: Section 13.1835 Terms and conditions. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: Section 13.1880 Old, used, or reclaimed as unused or new; § 13.1882 Prices; 13.1882-10 Additional prices unmentioned; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-50 Sales contract. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: Section 13.1955 Free goods; § 13.2013 Offers deceptively made and evaded; § 13.2063 scientific or other relevant facts. Subpart-Using Deceptive Techniques in Advertising: Section 13.2275 Using deceptive techniques in advertising; 13.2275-70 Television deceptions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1485 Filed 1-15-79; 8:45 am]

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

[6750-01-M]

SUBCHAPTER F—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS UNDER THE FAIR CREDIT REPORTING ACT

PART 600—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

AGENCY: Federal Trade Commission.

ACTION: Final Interpretation.

SUMMARY: Interpretation 600.8 of the Fair Credit Reporting Act (FCRA) was issued on March 8, 1978. It defined the permissible purposes for a creditor's access to credit reports on nonapplicant spouses during the course of credit transactions. Unless a permissible purpose, as defined in the FCRA, exists a consumer report may not be obtained about an individual without that individual's written instructions or a court order.

Among the circumstances in which the Commission found that a permissible purpose did *not* exist was the situation where one spouse applies for credit relying on the other spouse's income to repay the credit requested. Regulation B, which implements the Equal Credit Opportunity Act, permits a creditor to consider information, although not necessarily a credit report, about a nonapplicant spouse in the reliance situation. However, the Commission found that under those circumstances the nonapplicant spouse was not sufficiently "involved" in the credit transaction to create a permissible purpose to access the report under Section 604(3)(A) of the FCRA.

Because this conclusion was different from the position taken in the original proposed interpretation and because most of the comments received did not specifically address this issue, the Commission delayed the effective date of Interpretation 600.8 for sixty (60) days to afford an opportunity for additional public comment.

On the basis of the comments received, the Commission has determined to revise Intrepretation 600.8 to

permit a creditor to request a consumer credit report on a nonapplicant spouse when the applicant spouse relies on the nonapplicant's income to repay the credit requested.

DATE: Interpretation 600.8 is effective in final form as of January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

C. Lee Peeler, Fair Credit Reporting Act Program Advisor or Rena Steinzor, Attorney; Division of Credit Practices, Federal Trade Commission, Washington, D.C. 20580—(202) 724-1143 or 724-1580.

SUPPLEMENTARY INFORMATION: A total of four comments were received from individual consumers, consumer reporting agencies and retail creditor trade associations. All comments are available for public inspection. The following major substantive issues were raised by the comments.

INTERPRETATION 600.8

(1) Commentators representing two major trade associations of retail creditors and a major Midwestern women's apparel store chain stated that a significant number of married women who do not work take exclusive responsibility for family credit purchases at their stores or their members' stores and file credit applications without making their husbands users on the accounts or contractually liable for them. Without the ability to obtain and consider credit reports about the husbands whose income is being relied upon to repay the credit requested, the creditors would be forced to deny these applications.

(2) The commentators urged the Commission to reevaluate the Interpretation's balancing of privacy rights protected by the FCRA and the civil rights protected by the ECOA. They argue that given the decision of many families to delegate responsibility for credit purchases to the nonworking wife, the result of the Interpretation's prohibition on the accessing of a credit report on the husband without his signature would be to deny credit to many families. They believe that whatever harm may exist in obtaining a consumer report on a nonapplicant spouse is far outweighed by the effect that the inability to obtain this information will have upon the ability of a married woman to obtain credit.

(3) The commentators argued that the nonapplicant spouse is "involved" in the credit transaction as contemplated by Section 604(3)(E) of the FCRA because state law operates to render the husband liable for "necessaries" purchased by his wife. They also contended that state law interprets the marriage relationship to confer agent status on the wife when she makes credit purchases in reliance on her husband's income, therefore rendering him by implication a principal in the credit transaction.

(4) The commentators contended that the alternative to obtaining a credit report on the nonapplicant spouse was the direct verification of his employment and credit references. They argued that the direct verification procedures may be more intrusive on the privacy of the nonapplicant spouse than the credit report alternative and added that the Interpretation may indirectly have a more adverse impact on privacy than an interpretation which permitted access.

(5) On the basis of the comments received, the Commission has determined to revise its position in Interpretation 600.8 to provide that a creditor may access a consumer credit report on a nonapplicant spouse when the applicant spouse relies on the nonapplicant's income to repay the credit requested if state law would create liability on the part of the nonapplicant spouse, either through application of the doctrine of necessaries or through an agency relationship created by the marriage.

(6) The Commission rejected arguments that it should rely on section 604(3)(E) to find a permissible purpose. Use of section 604(3)(E) in connection with a credit transaction would render the more specific restrictions of section 604(3)(A) meaningless.

(7) The Commission did, however, determine that it is reasonable for a creditor to assume that a permissible purpose exists when an applicant applies for credit relying on the income of a nonapplicant spouse unless the creditor possesses or receives information clearly indicating that the applicant is not acting as the agent of the nonapplicant spouse and that the doctrine of necessaries is not applicable under state law. This position is consistent with the Commission's previous position that in community property states a creditor may, absent information to the contrary, rely on the fact that the applicant resides in a community property state in determining whether the property relied on is community property. Like the question of what property constitutes community property, the application of the doctrine of necessaries or agency is essentially a factual question. The Restatement of Agency, Second summarizes the application of agency law to the marital relationship by stating:

> Neither husband nor wife by virtue of the relation has power to act as agent for the other. The relation is of such a nature, however, that circumstances which in the case of strangers would not indicate the creation of authority or apparent authority may indicate it in the case of husband and wife. Thus, a husband habitually permitted by his wife to attend to some of her business matters may be found to have authority to transact all her business affairs. Likewise, if a wife is customarily permitted by her husband to order household supplies, authority or apparent authority on her part to purchase things needed in the household can be readily inferred. However, the fact that married women in the community customarily do this is not alone a basis for creating authority or apparent authority. (Section 22)

(8) Like the Commission's position with respect to access to consumer reports in community property states this interpretation does not alter the obligations imposed by state law but only establishes a measure of compliance with the permissible purposes section of the Fair Credit Reporting Act. The extent of the nonapplicant spouse's actual liability for the debt would be determined with certainty by state law, often only after the debt is in default. The Commission believes that absolute certainty that the nonapplicant spouse will be liable is not necessary at the initiation of the transaction. The Fair Credit Reporting Act does not require absolute certainty that a permissible purpose exists. A credit bureau may make a report if "it has reason to believe" the creditor intends to use the report for a permissible purpose and maintains "reasonable procedures designed * * * to limit the furnishing of consumer reports to the purposes listed under Section 604." Similarly, a user of consumer reports is civilly liable only if it "knowingly and willfully" obtains a report for an impermissible purpose after having signed a contract agreeing to obtain reports only for permissible purposes, or otherwise knowingly and willfully obtains the report using false pretense to obtain the report. There must, of course, be some reasonable basis to infer that the state law of agency or necessaries is likely to apply to the transaction.

Therefore, pursuant to Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) and § 1.73 of the Commission's Procedures and Rules of Practice (16 CFR 1.17-73), 16 CFR Chapter I, Subchapter F is amended by adding new § 600.8 reading as follows:

§ 600.8 Permissible purposes for reports on nonapplicant spouse in consumer credit transactions (Interprets 15 U.S.C. § 1681b (1970)).

(a) Because of the many types of accounts offered by creditors which involve reliance by the creditor on the resources of both spouses, a question arises as to when a creditor has a permissible purpose to access the consumer report of the nonapplicant spouse.[1]

(b) Whether a creditor would have a permissible purpose to access the con-

sumer report of the nonapplicant spouse turns on the extent of the spouse's involvement in the credit transaction. In order to make such a determination it is appropriate to look to § 202.5(c)(2) of Regulation B which implements the Equal Credit Opportunity Act.[2] That Section provides the circumstances under which a creditor may request information about the applicant's spouse. The Commission interprets Section 604(3)(A)[3] of the Fair Credit Reporting Act (FCRA) to permit a creditor to access the consumer report of the applicant's spouse in those cases in which § 202.5(c)(2) (i), (ii), (iii) and (iv)[4] permit the creditor to request information about the spouse subject to the limitation discussed below.[5]

(c) In our view, a creditor may access the consumer report of the applicant's spouse when the applicant is applying for an account which the spouse will be permitted to use,[6] or an account for which the spouse will be contractually liable.[7] In these instances a creditor would have a permissible purpose to access the nonapplicant spouse's report because, as to those two types of accounts, the creditor "intends to use the information in connection with a credit transaction involving the extension of credit to the consumer".[8] Since the nonapplicant spouse in both situations is receiving, in effect, an extension of credit, the creditor has a permissible purpose to receive the consumer report of both the applicant and nonapplicant spouse.

(d) Where the applicant is relying on community property as a basis for repayment of the obligation,[9] the creditor would also have a permissible purpose under Section 604(3)(A)[10] of the FCRA to obtain the consumer report of the nonapplicant spouse. This interpretation is based on the assumption that the applicant is acting as an agent for his or her spouse in committing either the community property or the spouse's income as a basis for establishing creditworthiness. Revised Regulation B allows the creditor to request information whenever the applicant resides in a community property state or property on which the applicant is relying as a basis of repayment of the credit requested is located in a community property state. The Commission believes that a creditor can rely on these two criteria (residence of the consumer and location of property) to determine reliance on community property. However, if the creditor receives information clearly indicating that the applicant is relying only on separate property to repay the credit extended, then a permissible purpose would not exist and a consumer credit report on the nonapplicant spouse could not be obtained.

(e) Similarly, where the applicant is relying on the nonapplicant spouse's income in a separate property state,[11] and state law provides for liability on the part of the nonapplicant spouse, either under the doctrine of necessaries or based on the agency relationship created by the marriage, a permissible purpose would exist to request a consumer credit report on the nonapplicant spouse. Because the application of the law of agency and the doctrine of necessaries is often a factual question under state law, the Commission believes that creditors may assume that a permissible purpose exists from the fact that the applicant is relying on the nonapplicant spouses income[12]. If, however, the creditor has or receives information clearly indicating that the applicant is not acting as the agent of the nonapplicant spouse and that the state doctrine of necessaries does not apply to the transaction, a permissible purpose would not exist and a consumer credit report on the nonapplicant spouse could not be obtained.

(f) The rationales described above do not apply to the situation set forth in § 202.5(c)(2)(v)[13] of Regulation B. The Commission believes that the fact of a previous marriage, standing alone, is not sufficient to establish a permissible purpose to obtain a consumer report on a spouse or former spouse under Section 604. Although § 202.5(c)(2)(v)[14] allows the creditor to request information on a former spouse where the applicant is relying on alimony or child support, a former spouse cannot be deemed to have consented to the distribution of his or her consumer report as can a participant in an ongoing marriage. Where a spouse is legally separated or has otherwise indicated an intent to legally disassociate with the marriage the Commission believes that no permissible purpose to obtain a consumer report exists.[15]

(g) Finally, it should be noted that a permissible purpose for making a consumer report on a nonapplicant spouse can never exist under Section 604(3)(A)[16] of the Fair Credit Reporting Act where Regulation B prohibits the creditor from requesting infomation on the spouse.

FOOTNOTES FOR § 600.8

[1] The term "nonapplicant spouse" is used here for identification purposes and refers to a spouse not actually signing or otherwise completing the application.

[2] Pub. L. 93-495, 88 Stat. 1521 (1974), as amended Pub. L. 94-239 (1976). 12 CFR 202.5(c)(2) (1977).

[3] 15 U.S.C. 1681b(3)(A) (1970).

[4] 12 CFR 202.5(c)(2) (i), (ii), (iii), and (iv) (1977).

[5] This interpretation is not intended to limit or abrogate any State law regarding privacy, privilege, or similar restrictions on obtainable information.

[6] 12 CFR 202.5(c)(2)(i) (1977).

[7] 12 CFR 202.5(c)(2)(ii) (1977).

[8] See Section 604(3)(A). 15 U.S.C. 1681b(3)(A) (1970).

[9] 12 CFR 202.5(c)(2)(iv) (1977).

[10] 15 U.S.C. 1681b(3)(A) (1970).

[11] 12 CFR 202.5(c)(iii) (1977).

[12] While the Commission believes this assumption is a reasonable test for a creditor to employ to determine whether it has a permissible purpose under § 604(3)(A), 15 U.S.C. § 1681b(3)(A) (1970), the assumption would have no impact on the nonapplicant spouse's actual liability under state law in the event of default.

[13] 12 CFR 202.5(c)(2)(v) (1977).

[14] 12 CFR 202.5(c)(2)(v) (1977).

[15] 15 U.S.C. 1681b(3)(A) (1970). Nothing in this interpretation should be read to prohibit the creditor from considering information about the former spouse which is presented by the applicant or obtained from a source other than a consumer reporting agency.

[16] Id.

By direction of the Commission dated January 3, 1979.

JAMES O. TOBIN,
Acting Secretary.

[FR Doc. 79-1407 Filed 1-15-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

[Docket No. FI-4282]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Elmsford, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Elmsford, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood

elevations, for the Village of Elmsford, Westchester County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Elmsford, Westchester County, New York, are available for review at the Village Hall, Elmsford, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Elmsford, Westchester County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saw Mill River.....	Downstream corporate limits.	174
	Tarrytown-White Plains Rd.	175
	Cross Westchester Expressway.	176
	Upstream corporate limits.	176
Knollwood Brook..	Downstream corporate limits.	213
	Knollwood Rd.....	213
	Cross Westchester Expressway.	216
	Alma Pl.....	221
	Woodside Ave.....	228
	Upstream corporate limits.	270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1143 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3967]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Greenwood Lake, Orange County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Greenwood Lake, Orange County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Greenwood Lake, Orange County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Greenwood Lake, Orange County, New York, are available for review at the Greenwood Lake Village Hall, Church Street, Greenwood Lake, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Greenwood Lake, Orange County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Greenwood Lake...	Entire Shoreline.....	622

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1144 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2945]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Hewlett Harbor, Nassau County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Hewlett Harbor, Nassau County, New

York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Hewlett Harbor, Nassau County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Hewlett Harbor, Nassau County, New York, are available for review at the Village Hall, Incor Village, 449 Pepperidge Road, Hewlett Harbor, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Hewlett Harbor, Nassau County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Hewlett Bay	Thixton Drive extended to Shoreline of Thixton Creek.	8
	Intersetion Channel Drive and Channel Rd.	8
	Intersection Birch Dr. and Lake Rd.	8
	Intersection Seawane Dr. and Seawane Pl.	8
	Intersection Seawane Dr. and Albon Rd.	8
	Intersection Albon Rd. & Everit Ave.	8
	Intersection Albon Rd. & Willow Pond Lane.	8
	Intersection of Pepperidge Rd. and Hewlett Lake.	8
	Intersection of Pepperidge Rd. and Auerbach Ave.	8
	Intersection of Pepperidge Rd. and Azure Pl.	8
	Intersection of Pepperidge Rd. and Everit Ave.	8
	Intersection of Heather Lane and Everit Pl.	8
	Intersection of Heather Lane and Auerbach Ave.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 F.R. 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1145 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3992]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Mamaroneck, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Mamaroneck, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Mamaroneck, Westchester County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Mamaroneck, Westchester County, New York, are available for review at the Town Clerk's Office, 740 West Boston Post Road, Mamaroneck, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Mamaroneck, Westchester County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sheldrake River	New York Thruway (Upstream).	32
	Lakeside Drive (Upstream).	36
	Hickory Grove Drive (Upstream).	60
	Lansdowne Road (Upstream).	62
	Briarcliff Road (Upstream).	72
	Rockland Avenue (Upstream).	78
	Bonnie Briar Lane (Upstream).	81
East Branch of Sheldrake River.	East Brookside Drive (Upstream).	62
	Driveway 800 feet upstream of East Brookside Drive (Upstream).	69

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Rockland Avenue (Upstream).	72
	Hilltop Road (Upstream).	76
	Driveway 300 feet upstream of Hilltop Road (Upstream).	79
	Driveway 100 feet downstream of York Road (Upstream).	93
	York Road (Upstream)...	93
	Driveway 100 feet upstream of York Road (Upstream).	94
	Winding Brook Road (Upstream).	97
	Fenimore Road (Downstream).	100

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1146 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3854]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Wappinger, Dutchess County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Wappinger, Dutchess County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Wappinger, Dutchess County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Wappinger, Dutchess County, New York, are available for review at the Wappinger Town Hall, Mill Street, Wappinger Falls, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Wappinger, Dutchess County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River.....	Corporate Limits (Downstream).	8
	Confluence of Branch 1A Hudson River.	8
	Confluence of Wappinger Creek.	8
Branch 1A Hudson River.	Confluence with the Hudson River.	8
	CONRAIL Bridge.....	12
	Chelsea River Road	12
	Dam (200 feet upstream from Chelsea River Road).	15
	Easter Road.....	25
	Chelsea Road.....	46
Wappinger Creek..	Confluence with Hudson River.	8
	CONRAIL Bridge.....	8
	New Hamburg Road.....	10
	Confluence of Branch 1—Wappinger Creek.	11
	Town of Wappinger—Village of Wappinger Falls Corporate Boundary (Downstream).	12
	Town of Wappinger—Village of Wappinger Falls Corporate Boundary (Upstream).	99
	U.S. 9	99
	Little Falls Dam	108
	Confluence of Branch 2 Wappinger Creek.	112
	Jackson Road.....	115
	Corporate Limits (Upstream).	126
Branch 1 Wappinger Creek.	Confluence with Wappinger Creek.	11
	Creek Road.....	11
	Footbridge (1860 feet upstream from Wappinger Creek).	66
	Driveway (280 feet downstream from Route 9D).	121
	Dam (125 feet downstream from Route 9D).	124
	Route 9D.....	126
	Footbridge (1,200 feet downstream from Route 9).	140
	Old State Road.....	147
	Old Route 9	148
	U.S. Route 9	150
Branch 2 Wappinger Creek.	Confluence with Wappinger Creek.	112
	Route 110.....	112
	Route 104.....	114
	Footbridge (275 feet upstream from Route 104).	130
	Driveaway (at Upstream end of Greens Pond).	136
	Widmer Road.....	153
	Confluence of Branch 2A—Wappinger Creek.	160
	Driveaway (600 feet downstream from Myers Corner Road).	175
	Myers Corner Road.....	181
	Dam (30 feet upstream from Myers Corner Road).	184
	Dam (150 feet upstream from Myers Corner road).	184
	Kent Road	220
	Footbridge (150 feet upstream of Kent Road).	224
	Dam (Downstream end of Lake Oniad).	225
Branch 2A Wappinger Creek.	Confluence with Branch 2 Wappinger Creek.	160
	Private Bridge.....	162
	Footbridge (200 feet downstream from High School Access Road).	165
	Footbridge (500 feet downstream from High School Access Road).	167
	Access Road to High School.	171
	Myers Corner Road.....	181
Branch 2B	Dam (75 feet upstream of Branch 2 Wappingers Creek).	131
Wappinger Creek..	Footbridge (1,200 feet downstream Route 94).	138
	Route 94.....	145
	Driveway (900 feet upstream from Route 94).	170

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Dam (1,050 upstream from Route 94).	177
	Footbridge (1,500 feet downstream of Route 376).	180
	Route 376	184
Sprout Creek	Corporate Limits (Downstream).	227
	Route 82 (Wappinger Road).	229
	Route 28	237
	Brown Road	244
	Montfort Road	257
	Route 376	266
	Conrail Bridge	267
	Robinson Lane	278
	Confluence of Jackson Creek.	287
	Dam (1,500 feet downstream from corporate Limits).	289
	Private Bridge	289
	Corporate Limits (Upstream).	290

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8,1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1147 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4359]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Valleyview, Franklin County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Valleyview, Franklin County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Valleyview, Franklin County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Valleyview are available for review at the Village Hall, 432 North Richardson Avenue, Columbus, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Valleyview, Franklin County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Run	At downstream corporate limit.	770
	1,000 feet upstream of the downstream corporate limit.	772
	800 feet downstream of Hague Avenue.	776
	680 feet downstream of Hague Avenue.	777
	60 feet downstream of Hague Avenue.	779
	Just upstream of Hague Avenue.	787
	At upstream corporate limit.	787
North Branch Dry Run.	At confluence with Dry Run.	771
	Just upstream of Richardson Avenue.	771
	Just downstream of Dibblee Avenue.	775
	40 feet upstream of Dibblee Avenue.	777
	340 feet upstream of Dibblee Avenue.	780
	At upstream corporate limit.	781

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1148 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4128]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Salem, Marion and Polk Counties, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Salem, Marion and Polk Counties, Oregon. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Salem, Marion and Polk Counties, Oregon.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Salem,

Marion and Polk Counties, Oregon, are available for review at the Civic Center, 555 Liberty Street, Salem, Oregon.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Salem, Marion and Polk Counties, Oregon.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the coummunity.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Willamette River ..	Downstream Corporate Limits.	138
	Center Street	142
	Upstream Corporate Limits.	145
Shelton Ditch.....	Confluence with Willamette River.	142
	Upstream Church Street.	147
	Upstream Winter Street	149
	Upstream 12th Street.....	155
	Upstream 14th Street.....	161
	Upstream Lee Street.....	168
	Upstream Ford Street	176
	Upstream Airport Road .	185
	Mill Creek Control Structure.	189
Mill Creek	Shelton Ditch Control Structure.	191
	Upstream Mission Street.	197
	Upstream Cascade Gateway Park Bridge.	204
	Upstream Interstate Route 5.	221
	Upstream River Bend Gravel Company Haul Road.	228
	Upstream Salem-Turner Road.	237
	Upstream Prison Annex Road.	246
	Upstream Corporate Limits.	257

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1149 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4375]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Coraopolis, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Coraopolis, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Coraopolis, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Coraopolis, Allegheny County, Pennsylvania, are available for review at the Borough of Coraopolis Secretary's Office, 1012 5th Street, Coraopolis, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Coraopolis, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limit.	717
	Upstream Corporate Limit.	718
Montour Run.....	Confluence with Ohio River.	718
	Most Upstream Corporate Limits.	718

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1150 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4376]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Dravosburg, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Dravosburg, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Dravosburg, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Dravosburg, Allegheny County, Pennsylvania, are available for review at the Dravosburg Borough Hall, Secretary's Office, 3rd Street, Dravosburg, Pennsylvania 15034.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Dravosburg, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Upstream Corporate Limits.	746
	Downstream Corporate Limits.	745

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1151 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4377]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Glassport, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Glassport, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Glassport, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Glassport, Allegheny County, Pennsylvania, are available for review at the Glassport Borough Hall, 5th and Monongahela Avenue, Glassport, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Glassport, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Upstream Corporate Limits.	747
	Downstream Corporate Limits.	746

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of

1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1152 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3161]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Philadelphia, Philadelphia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Philadelphia, Philadelphia County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Philadelphia, Philadelphia County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Philadelphia, Philadelphia County, Pennsylvania, are available for review at the City Hall, 215 City Hall, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Philadelphia, Philadelphia County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Indian Creek	City Line Avenue	178
	Lansdowne Avenue (Upstream Side).	128
	Haverford Avenue (Upstream Side).	112
	Golf Course Service Road.	88
Cobbs Creek	City Line Avenue	129
	Lansdowne Avenue (Upstream Side).	103
	Confluence with Indian Creek.	88
	Market Street (Upstream Side).	70
	Baltimore Avenue (Upstream Side).	52
	Cobbs Creek Parkway (Upstream Side).	38
	65th Street (Upstream Side).	34
	Woodland Avenue (Upstream Side).	28
Darby Creek	Hook Road (84th Street) Upsteam Side.	17
Wissahickon Creek.	Northwestern Avenue	140
	Thomas Mill Road (Upstream Side).	115
	Wissahickon Drive (Upstream Side).	79
	Henry Avenue (Upstream Side).	52
	Confluence with Schuylkill River.	38
Schuylkill River	Green Lane Bridge (Upstream Side).	48
	Falls Bridge	34
	Girard Avenue	27
	Walnut Street	22
	Passyunk Avenue	10
	Confluence with Delaware River.	10
Tacony Frankford Creek.	Adams Avenue (Upstream Side).	78
	Tabor Road	67
	Wyoming Avenue	50
	Castor Avenue (Upstream Side).	32
	Kensington Avenue (Upstream Side).	24
	Delaware Expressway (Upstream Side).	15
	Confluence with Delaware River.	10
Wooden Bridge	Grant Avenue	70
Run.	Willits Avenue (Upstream Side).	54
	Holme Avenue	46
	Confluence with Pennypack Creek.	32
Pennypack Creek	Pine Road (Upstream Side).	98
	Krewstown Road (Upstream Side).	71
	Roosevelt Boulevard	55
	Holme Avenue (Upstream Side).	53
	Confluence with Sandy Run.	48
	Welsh Road (Upstream Side).	38
	Frankford Avenue (Upstream Side).	25
	State Road (Upstream Side).	18
	Confluence with Delaware River.	10
Walton Run	Caroline Road	117
	Old Decatur Road Bridge (Upstream Side).	92
	Academy Road (Upstream Side).	68
Byberry Creek	Byberry Road	109
	Thornton Road (Upstream Side).	93
	Chalfont Drive (Upstream Side).	63
	Chesterfield Road (Upstream Side).	51
	Morrell Avenue (Upstream Side).	35
	Confluence with Poquessing Creek.	28
Poquessing Creek	City Limit	132
	Roosevelt Boulevard (Upstream Side).	112
	Cloverdale Road (Upstream Side).	94
	Century Lane (Upstream Side).	75
	Byberry Road	42
	Red Lion Road (Upstream Side).	29
	Confluence with Delaware River.	10
Delaware River	Tidal Flooding—elevation is constant (to nearest foot).	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1153 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4431]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Shoemakersville, Berks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Shoemakersville, Berks County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Shoemakersville, Berks County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Shoemakersville, Berks County, Pennsylvania, are available for review at the Borough of Shoemakersville Clerk's Office, 506 Main Street, Shoemakersville, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Shoemakersville, Berks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	Downstream Corporate Limits Extended.	307
	Confluence of Plum Creek.	310
	Miller Street Bridge	312
	Upstream Corporate Limits Extended.	313
Plum Creek	Confluence with Schuylkill River.	310
	Main Street Bridge	310
	Conrail Bridge	328
	Franklin Street Bridge	328
	Pennsylvania Route 61	328

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1154 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4216]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Briarcliffe Acres, Horry County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Briarcliffe Acres, Horry County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Briarcliffe Acres, Horry County, South Carolina.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Briarcliffe Acres, Horry County, South Carolina, are available for review at the Town Office, Highway 17, Briarcliffe Acres, South Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Briarcliffe Acres, Horry County, South Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Northern Corporate Limit.	13
	Southern Corporate Limit.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1155 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4261]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Cameron County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Cameron County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Cameron County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Cameron County, Texas, are available for review at the Cameron County Courthouse, Brownsville, Texas 78520.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Cameron County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding	North Section of Orange Grove Road South Section of South Rabb Road.	56
	Orphanage Road between N. W. Cantu Road and State Route 506.	49
	North Rabb Road between Orphanage Road and Sesso Road.	49
	San Fillipo Road between State Route 506 and N. Kansas City Road.	47
	Intersection of Bass Boulevard and Orphanage Road.	42
Sheet Flooding	Landrum Park Road	50
	Minor Road	48

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1156 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3243]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Del Rio, Val Verde County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Del Rio, Val Verde County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Del Rio, Val Verde County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Del Rio, Val Verde County, Texas, are available for review at the City Hall, 109 West Broadway, Del Rio, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Del Rio, Val Verde County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
San Felipe Creek...	Downstream Corporate Limits.	922
	Confluence of Calaveras Creek.	924
	Unnamed Dam 3, 960 feet downstream of Academy Street (Upstream).	928
	Academy Street (Upstream).	936
	Canal Street (Upstream)	939
	Tani Street (Upstream)..	947
	Unnamed Dam 264 feet upstream of Tani Street (Upstream).	948
	Gilis Avenue (Upstream).	951
	Margarite Avenue, U.S. Route 277 (Upstream).	959
	Southern Pacific Railroad (Upstream).	964
	U.S. Route 90 (Upstream).	965
Calaveras Creek	Confluence with San Felipe Creek.	924
	Corporate Limits 396 feet downstream of Brodbent Avenue.	932
	Corporate Limits 5,280 feet downstream of Southern Pacific Railroad.	965
	Southern Pacific Railroad (Upstream).	998
	Downstream U.S. Route 90 (Upstream).	998
	Upstream U.S. Route 90 (Upstream).	1,007
	Upstream Corporate Limits.	1,011
Stream 1	Downstream Corporate Limits.	937
	Bowie Street (Upstream).	946
	Plaza Avenue (Upstream).	951
	San Felipe Avenue (Upstream).	954
	U.S. Route 277, Margarite Avenue (Upstream).	958
	Vitela Street (Upstream).	963
Stream 2	Downstream Corporate Limits.	977
	Lenora Avenue (Upstream).	983
	Wildcat Drive (Upstream).	1,005
Cantu Branch.....	Downstream Corporate Limits.	1,005
	Alta Vista Road (Upstream).	1,017
	margaret Lane (Upstream).	1,025
	Terry Street (Upstream)	1,027
	Gayle Avenue (Upstream).	1,030
	U.S. Routes 277 and 90 (Upstream).	1,034
	Corporate Limits 6,970 feet upstream of U.S. Routes 277 and 90.	1,042
	Upstream Corporate Limits.	1,046
Stream 3	Downstream Corporate Limits.	1,007
	Downstream Kings Way (Upstream).	1,010
	Amistad Boulevard (Upstream).	1,031
	Upstream Kings Way (Upstream).	1,064
	Upsteam Corporate Limits.	1,064

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1157 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2835]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Charlottesville, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Charlottesville, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Charlottesville, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Charlottesville, Virginia, are available for review at the Planning Office, Department of Community Development, City Hall, 7th and Main Streets, Charlottesville, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Charlottesville, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Rivanna River	Chesapeake Street Extended.	328
	Riverview Street Extended.	333
	Fairway Avenue Extended.	334
	U.S. 250	339
	Confluence with Meadow Creek.	342
Meadow Creek.....	Holmes Avenue.....	344
	Glendale Road Extended.	346
	Essex Road Extended.....	403
	King Mountain Road Extended.	404
	Hydraulic Road	420
	Rt. 250 By-Pass.....	427
	Earhart Street	431
	Private Road	435
North Fork Meadow Creek.	Confluence w/Meadow Creek.	435
	200' upstream from Emmet Street.	440
	1,000' upstream from Emmet Street.	445
	50' downstream from Cedar Court Road.	451
	Cedar Court Road.....	456
Moores Creek.....	Downstream Corporate Limit.	332
	Monticello Avenue Extended.	338
	Palatine Avenue Extended.	344
	Meridian Street Extended.	353
	Old Scottsville Road.....	359
	Hartman Mill Road Extended.	362
Rock Creek	Confluence with Moores Creek.	365
	5th Street Downstream..	370
	5th Street Upstream.....	373
	Prospect Avenue Extended.	379

Source of flooding	Location	Elevation in feet, above mean sea level
	Orangedale Avenue Extended.	381
	Elkhorn Road Extended	390
	Briarcliff Avenue Extended.	395
	Laurel Circle Extended..	400
5th Street Creek ...	Confluence with Rock Creek.	373
	700' upstream from confluence.	375
	1,000' upstream from confluence.	380

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1158 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4008]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Richmond, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Richmond, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Richmond, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Richmond, Virginia, are available for review at the City Clerk's Office, City Hall, 900 East Broad Street, Richmond, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Richmond, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
James River	Chesterfield County Line.	28
	Confluence w/Broad Rock Creek.	33
	I-95	36
	Mayos Bridge	37
	9th Street Bridge	39
	Browns Island Dam (Upstream Side).	46
	Robert E. Lee Bridge (Upstream Side).	50
	Hollywood Dam (Upstream Side).	64
	Boulevard Bridge (Upstream Side).	89
	Powhite Freeway	101
	Williams Island Dam (Upstream Side).	120
	Hugenot Bridge (Upstream Side).	126
	At Stony Point Creek	131
	Boshers Dam	135
	Pittaway Creek	138
Pocosham Creek ...	Mouth	134
	Walmsley Boulevard (Upstream Side).	144
	1,000 feet upstream of Walmsley Boulevard.	149
	2,000 feet downstream of Hull Street.	156
	Hull Street (Upstream Side).	180
	Whitehead Road	186
Grindall Creek.....	Walmsley Boulevard (Upstream Side).	58
	Castlewood Road	62
	1st Crossing of Seaboard Coast Line Railroad (Upstream Side).	82
	2nd Crossing of Seaboard Coast Line Railroad (Upstream Side).	103
Broad Rock Creek	Mouth	33
	Richmond Petersburg Turnpike.	33
	Seaboard Coast Line Railroad (Upstream Side).	43
	9th Street	44
	Krouse Street (Upstream Side).	52
	Lynhaven Avenue	60
	Berwyn Street (Upstream Side).	65
	Columbia Street (Upstream Side).	68
	Seaboard Coast Line Railroad (Upstream Side).	112
	5,000 feet upstream from the Seaboard Coast Line Railroad.	143
Goodes Creek	Mouth	44
	Bellmeade Avenue (Upstream Side).	59
Stony Run.....	Mouth	46
	E. Richmond Road (50 feet downstream side).	53
	E. Richmond Road (Upstream Side).	62
	Stony Run Parkway	73
	Henrico County Line	77
Powhite Creek.....	Mouth	102
	Forest Hill Exist (Upstream Side).	116
	Southern Railway	120
	Powhite Freeway	131
Rattlesnake Creek	Mouth	123
	Riverside Drive	123
	Dam upstream of Riverside Drive (Upstream Side).	133
	Cherokee Road (Upstream Side).	146
	Weyburn Road	154
	Chippenham Parkway (Upstream Side).	166
Stony Point Creek	Mouth	131
	Dam upstream of Cherokee Road.	131
	0.5 Miles upstream from mouth.	151
Cherokee Creek.....	Mouth	135
	Cherokee Road & Dam (Upstream Side).	146
	Apache Road (Upstream Side).	159
	Cedar Grove Road (Upstream Side).	160
	Garden Road (Upstream Side).	177
Pittaway Creek.....	Mouth	138
	Cherokee Road (Upstream Side).	142
	Wainfleet Drive (Upstream Side).	161
	Dam 4,800 feet upstream of Wainfleet Road (Upstream Side).	222

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has

been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1159 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4051]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Hoquiam, Grays Harbor County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hoquiam, Grays Harbor County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hoquiam, Grays Harbor County, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hoquiam, Grays Harbor County, Washington, are available for review at the City Hall, 609 8th Street, Hoquiam, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hoquiam, Grays Harbor County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Hoquiam River	Upstream Hoquiam Corporate Limits.	10
	Confluence with Little Hoquiam River.	10
	Confluence with East Hoquiam River.	10
	Burlington Northern Railway.	10
	U.S. Highway 101 North (6th Street).	10
	U.S. Highway 101 South (Simpson Avenue).	10
	Burlington Northern Railway.	10
East Hoquiam River.	Panhandle Road	10
	Upstream Corporate Limits.	10
Little Hoquiam River.	U.S. Highway 101	10
	Confluence with Hoquiam River.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 F.R. 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1160 Filed 1-15-79; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 812-79]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart M—Land and Natural Resources Division

DELEGATING TO THE ASSISTANT ATTORNEY GENERAL OF THE LAND AND NATURAL RESOURCES DIVISION THE DUTIES IMPOSED UPON THE ATTORNEY GENERAL BY SECTION 115(b) OF THE "URANIUM MILL TAILINGS RADIATION CONTROL ACT OF 1978"

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 115(b) of the Uranium Mill Tailings Radiation Control Act of 1978, requires that the Attorney General conduct a study to determine who owned, operated or controlled sites where uranium was mined or processed and where residual radioactive materials remain. The purpose of the study is not only to identify such persons, but also to determine if they have any legal responsibility for any reclamation or other remedial action which might be required with respect to such sites and, based upon the study, to take appropriate legal action to require such persons to pay all or part of any costs incurred by the United States for such remedial action for which the Attorney General determines such person is liable. The Act further requires the Attorney General to publish the results of his study and provide copies of it to the Congress.

This Order delegates to the Assistant Attorney General of the Land and Natural Resources Division, the authority provided for in section 115(b) of the Act.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

James W. Moorman, Assistant Attorney General, Land and Natural Resources Division, Washington, D.C. 20530 (202-633-2701).

§ 0.65 [Amended]

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, § 0.65 of Subpart M of Part O of Chapter I of title 28, Code of Federal Regulations, is amended by adding a new paragraph (h) immediately after paragraph (g) to read as follows:

* * * * *

(h) Conducting the study of processing sites required by section 115(b) of

the Uranium Mill Tailings Radiation Control Act of 1978, publishing the results of such study and furnishing the results thereof to the Congress and, based on such study, determining and taking whatever actions, if any, shall be appropriate and in the public interest to require payment by such persons as the study identifies, of all or any part of the costs incurred by the United States for such remedial action for which he determines such persons are liable.

Dated: January 5, 1979.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 79-1481 Filed 1-15-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 963-2]

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

Emission Offset Interpretative Ruling

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule describes the requirements for preconstruction review which apply to large new (or modified) air pollution sources affecting areas with air quality worse than the levels set to protect the public health and welfare. The action makes certain revisions to ERA's Emission Offset Interpretative Ruling of December 21, 1976 (41 FR 55524). These revisions are a result of the public comments (including four public hearings) on the December 21, 1976, Interpretative Ruling and changes required by the Clean Air Act Amendments of 1977 (Pub. L. 95-95, note under 42 U.S.C. 7401).

DATES: These changes are applicable to permits applied for on or after January 16, 1979. States may, if they so desire, make these changes applicable on a retroactive basis unless specified otherwise in the Ruling. Comments on specified issues should be submitted in accordance with the proposal published elsewhere in today's FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

D. Kent Berry, Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 11, Research Triangle Park, North Carolina 27711, Telephone: 919-541-5341.

SUPPLEMENTARY INFORMATION: On December 21, 1976, EPA issued an Interpretative Ruling (41 FR 55524) addressing the issue of whether and to what extent national ambient air quality standards (NAAQS) established under the Clean Air Act may restrict or prohibit construction of major new or modified stationary air pollution sources. The Ruling provides, in general, that a major new source, which emits pollutants in excess of specified amounts and would otherwise contribute to an existing violation of a national standard, may be constructed only if stringent conditions can be met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that there will be progress toward achievement of the standards. Where such a source would otherwise cause a new violation of an NAAQS, offsets or additional control must be provided to prevent a new violation of the standards.

Although this Ruling was made immediately effective, the Agency solicited written comments and held public hearings in San Francisco, Dallas, Chicago, and New York. The comments received (including a summary of those comments) and the public hearing records are available for public inspection and copying during normal business hours at: Public Information Reference Unit, Environmental Protection Agency, Room 2922 (EPA Library) 401 M Street, SW., Washington, D.C. 20460.

PERMITS REQUIRED FOR NEW OR MODIFIED AIR POLLUTION SOURCES

The Federal Clean Air Act and most State regulations require that new air pollution sources and modifications of existing sources which would increase air pollution emissions must obtain a permit *before construction is begun.* The State (or local) new source review procedures apply to almost all new or modified air pollution sources. This review is intended to ensure that new sources will meet all applicable air pollution regulations adopted by the States. In addition, larger sources (which will have increased emissions of 50 tons per year of any air pollutant) [1] will be subject to more stringent requirements relating to the source's impact upon air quality.

A given source may have air pollution impacts in an area which has clean air or in an area which has dirty air. Some sources can affect both types of areas. The type of review requirements that a new source must comply with depends on whether the source affects a dirty air or clean air area. A source which impacts an area where the air is cleaner than the national ambient air quality standards (NAAQS) is subject to regulations for preventing significant deterioration (PSD) of air quality.[2] The purpose of these regulations is to keep clean air clean and the primary focus is to limit new emissions of sulfur oxides and particulate matter.

A new source that would affect a dirty air area will also be subject to EPA's Emission Offset Interpretative Ruling, the main provisions of which require the new source to meet the lowest achievable emission rate for the problem pollutant(s) and to obtain more than equivalent offsetting emission reductions (emission offsets) from existing sources. A source may be subject to PSD for one pollutant and to the Offset Ruling for another pollutant, or may affect both clean and dirty areas for the same pollutant.

At the present time, the Offset Ruling is generally carried out by the States as part of their own new source review procedures. In most areas, EPA's Offset Ruling will terminate as of July 1, 1979, and will be replaced by State-adopted new source review requirements. However, if States fail to adopt an acceptable plan to attain the NAAQS by the dates specified in the Clean Air Act, the Act requires that no permits for major new sources applied for after June 30, 1979 be issued.

The PSD program is generally being carried out by EPA through its Regional Offices. Thus, large sources must now get a preconstruction permit from both the State (for offsets) and EPA (for PSD). However, many States will be developing their own PSD program, allowing the air permit program to be consolidated at the State level. Until this occurs, major source owners should obtain their State permit before applying to EPA for a PSD permit. It is recommended that source owners consult with both EPA and the States before submitting a permit application to determine what requirements will be applicable and what kind of information must be submitted. To avoid delays, major source owners should apply for a permit as early in their planning process as possible and should allow for a minimum of three months from the date of application for a permit to be issued.

IMMEDIATELY EFFECTIVE CHANGES RESULTING FROM 1977 CLEAN AIR ACT AMENDMENTS

1. *Baseline.* In the December 21, 1976 Ruling, the baseline for deter-

[1] The criteria for determining the applicability of these more stringent requirements are actually more complex and can be found in the specific regulations mentioned below.

[2] See Federal Register of June 19, 1978, pp 26380-26410.

mining emission offset credit was the SIP emission limitations in effect for existing sources (i.e., control of existing sources beyond that required by the SIP could be used to offset emissions from new sources). However, for areas where EPA had formally found the State plan inadequate and had requested revision, the baseline was the emissions that would result from application or reasonably available control measures (RACM) by existing sources. Furthermore, even where the baseline was the existing SIP rather than RACM, the 1976 Ruling provided for several adjustments to the baseline to take account of unusual circumstances. Explicit provisions were included to govern situations where there was no applicable SIP requirement, where offset credit would come from switching to cleaner fuels, and where the permitted emission level exceeded the uncontrolled emission factor of the source. 41 FR at 55529 cols. 2-3. In addition, EPA does not interpret the 1976 Ruling as allowing offset credit for tightening SIP requirements for a source to reduce the emission level allowed by the SIP down to the level allowed for the source by applicable new source performance standards (NSPS) or national emission standards for hazardous air pollutants (NESHAPS) requirements (i.e., requirements under Sections 111 and 112, respectively, of the Act). Any other approach would allow offset credit for so-called "paper" reductions, where the SIP is adjusted but no actual tightening of requirments under the Act occurs. These special provisions all implement the general principle behind the 1976 Ruling, that offsets must ordinarily represent reductions in emissions below the emissions allowed by existing requirements.

Section 129(a)(1) of the Clean Air Act Amendments of 1977 (Pub. L. 95-95 (note under 42 U.S.C. 7502)) states that the 1976 Ruling, as it may be modified, shall remain in effect, except that the baseline for determining emission offset credit "shall be the applicable implementation plan of the State in effect at the time of application for a permit * * *." The legislative history indicates that this provision was intended to eliminate the provision in the 1976 Ruling that the baseline was RACM where EPA had called for a SIP revision. But this provision was not inntended to displace the provisions under the 1976 Ruling to accommodate special circumstances, giving credit only for reductions below the emissions allowed by existing requirements.

For the foregoing reasons, the ruling is revised to eliminate the requirement that the baseline be RACM where EPA has called for SIP revisions.[3] EPA invites public comment on its policy that the Ruling does not allow offset credit for tightening SIP requirements down to NSPS or NESHAPS levels, and invites comment on whether the language of the Ruling establishing the baseline should be revised to make this policy more explicit.

2. *Nonattainment requirements under the amended Act.*—a. *Amendments required by nonattainment provisions of the Act.* New Part D of Title I of the Act [4] requires States to revise their SIP's for every area where an NAAQS is not being met. For each standard, areas were designated, under Section 107(d) and 171(2) of the Act, as either attaining the standard (attainment areas), violating the standard (nonattainment areas), or areas that cannot be classified on the basis of available information (unclassifiable areas).[5] For areas initially designated as nonattainment areas,[5] the deadline for States to submit required SIP revisions is January 1, 1979. Revised SIP's meeting the requirments of Part D must be in effect by July 1, 1979. For areas initially designated as attainment or unclassifiable but are later found to be nonattinment areas, additional time may be necessary for development, submittal and approval of the required SIP revisions.

The Act provides that the Ruling be superseded after June 30, 1979—(a) by preconstruction review provisions of the revised SIP, if the SIP meets the requirements of Part D, or (b) by prohibition on construction under the applicable SIP and Section 110(a)(2)(I) of the Act, if the SIP does not meet the requirments of Part D. The Ruling is now being amended to reflect this, and to state that the Ruling will remain in effect to the extent not superseded under provisions of the Act. The above prohibition on major new source construction does not apply to a source whose permit for construction or modification was applied for during a period when the SIP was in compliance with Part D, or before the deadline for having a revised SIP in effect that satisifies Part D. The Ruling is amended to reflect this.[6]

b. *Additional effects of nonattainment requirements on this Ruling.* By its terms, this Ruling has always applied to proposed major sources and major modifications anywhere in the State that will cause or contribute to a violation of an NAAQS, regardless of whether the sources or modifications were within an area determined in general to be nonattainment. 41 FR 55528 col. 2. Designations of nonattainment, therefore, do not limit the areas within which this Ruling applies.

In EPA's view, the Act requires that for any area disignated as monattainment for any NAAQS, the preconstruction review provisions under Part D, or the prohibition on construction under the applicable SIP and Section 110(a)(2)(I), must apply to all major sources within the State that will cause or contribute to a violation of the NAAQS within an area initially designated as a nonattainment area. Consequently, after July 1, 1979, the Intrepretative Ruling will only apply in the followng situations: (a) To sources in one State which contribute to a violation of an NAAQS only with another State, (b) during the time allowed for the development and approval and/or promulgation of revised SIP in an area which is subsequently determined to violate an NAAQS, and (c) during any extended time allowed under Section 110(b) for development of a SIP revision of an area that violates only a secondary NAAQS. Also, for sources in one State (which has an acceptable SIP) that would contribute to a violation in another State (which does not have an acceptable SIP), the restrictions on new source construction under the applicable SIP and Section 110(a)(2)(I) do not apply.

Under the preconstruction permit requirements in Part D, States have two basic options for dealing with proposed new major sources within a nonattainment area that cause or contribute to a violation of an NAAQS. The SIP may provide an allowance for growth while assuring reasonable further progress toward attainment, and new sources may be allowed that do not result (individually or in the aggregate) in emissions that exceed the allowance. If the growth allowance is used up, or if none is provided, the State's other option is to allow sources to be constructed only if case-by-case offsets are obtained sufficient to provide for reasonable further progress towards attaining the NAAQS by the attainment date prescribed under Part D. If the SIP for the nonattainment

[3] The 1977 Amendments and legislative history clearly call for this Amendment. See 123 Congressional Record at S 9165 col. 2 (daily ed. June 6, 1977). therfore, EPA has determined that notice and public procedure are unnecessary before making this Amendment.

[4] Part D of the Act, which includes Sections 171 through 178 (42 U.S.C. 7501-7508).

[5] Initial designations were published by EPA on March 3, 1978, 43 FR 8962. Revisions to the initial designations were recently published for some States (43 FR 40412, 43 FR 40502, and 43 FR 45993, September 11 and 12, and October 5, 1978) and will soon be published for other States. Designations are codified at 40 CFR 81.300 *et. seq.*

[6] These amendments to the Ruling do no more than state that the Act provides for supersession of this Ruling. Furthermore, it is important to have a clear statement at this time of the earliest possible application of the prohibition on major new source construction, to assist industrial planning. For these reasons, EPA has determined that soliciting public comment before making these amendments would be unnecessary and contrary to the public interest.

area is not being carried out, however, no permits may be issued within the area as required by Section 173(4).

The discussion in this notice of the requirements for revised SIP's under Part D, and for a prohibition on construction under the applicable SIP and Section 110(a)(2)(I), is provided to place the Ruling in perspective, and does not constitute regulations promulgated or final action taken by the Administrator to establish or interpret those requirements. Many of the approaches used by the Agency in revising the Ruling may be used by the States as guidance in developing provisions under Part D; but again, except as noted below, this does not consititute regulations or final action establishing or interpreting requirements for preconstruction review provisions. The Agency's nationally applicable policy summarizing the elements that a SIP submittal must contain to meet the requirements of Part D was published in the FEDERAL REGISTER on May 19, 1978, 43 FR 21673, and the discussion and guidance provided by this notice merely supplement that policy.

The only exception is that certain terms in the Ruling are also used in Sections 172(b)(6), 173, and 302(j) of the Act to prescribe the requirements for revised preconstruction review provisions. Therefore, the definitions in this ruling of the terms "source," "potential," and "modification" (see discussion below on additional flexibility in defining "modification") apply to the statutory requirements for preconstruction review provisions under Sections 110(a)(2)(I) and Part D as well as under this Ruling. The discussion below of "lowest achievable emission rate," and of cut-offs to limit review of small sources, also apply to State preconstruction review programs under Section 173 of the Act [although not to the prohibition on construction under Section 110(a)(2)(I)].

MAJOR SOURCE ISSUES

1. *Sources subject to review*—a. *Definition of "potential" to emit and definition of cutoff points.* Section 129(a) of the 1977 Amendments requires that the offset requirements be applicable to all major stationary sources (including Federal facilities) as defined in Section 302 of the Act (i.e., sources with potential emissions of 100 tons or more per year). The emission offset requirements currently apply to sources with *allowable* emissions greater than 100 tons per year. Since the 1977 Act Amendments did not define potential emissions and there has been some question as to the Congressional intent of this term, this change was not made immediately effective. However, this issue was dealt with in EPA's proposed regulations for preventing significant deterioration (PSD) of air quality (42 FR 26388). As set forth in the final PSD regulations, potential emissions are defined in terms of uncontrolled emissions but sources are exempt from the best available control technology and the air quality related tests if the source's allowable emissions would be less than each of the following cutoff points: 50 tons per year, 1000 pounds per day or 100 pounds per hour. The short-term criteria are included to ensure that a source that operates seasonally or intermittently is adequately dealt with regarding its impact on short-term air quality. For the same reasons as are discussed in the preamble to the PSD regulations, the Emission Offset Ruling is revised to require review of sources based on their uncontrolled emissions, but to exempt sources from the major conditions of the Ruling if the allowable emissions are less than the above cutoff points.

It should be noted that any source with allowable emissions less than the above amounts which is exempted from the offset requirements will use up part of the State's allocation for growth (see discussion in preceding section) at the time such source begins operation. Thus, a State plan may need to require additional control of existing sources (or more rapid compliance) in order to achieve the "annual reasonable further progress toward attainment" required by the Act.

b. *Definition of "source."* A number of commenters indicated the need for a more explicit definition of "source." Some readers found that it was unclear under the 1976 Ruling whether a plant with a number of different processes and emission points would be considered a single source. The changes set forth below define a source as "any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." This definition precludes a large plant from being separated into individual production lines for purposes of determining applicability of the offset requirements.

The revised definition of "source" is only a clarification, and represents no change from EPA's intent in the December 1976 Ruling and the way the Ruling has been implemented. The definition is consistent with the use of this term in other SIP-related regulations (e.g., 40 CFR Part 51, Appendix C), and is identical to the approach recently adopted for the Prevention of Significant Deterioration (PSD) regulations (see 40 CFR 52.21(b)(4), 43 FR 26388, June 19, 1978).

c. *Public comment.* Comments were originally solicited on the definition of cut-off points to limit review of small sources in the Advance Notice of Proposed Rulemaking published on December 21, 1976. 41 FR 55559. Comments were received on the definition of "source" in the 1976 version of this Ruling. The definitions of the term "potential" and "source," and the definition of cut-off points to limit review, were all the subject of extensive public comment in response to EPA's proposed PSD regulations, which contained an approach very similar to that adopted here. The definitions adopted here were based on all of this public comment, and EPA has determined that it is unnecessary to postpone adoption of these definitions until after further comment is solicited and evaluated. However, since a major industrial group has requested another opportunity to comment on these important issues, EPA is inviting further comment on these definitions, particularly to identify any considerations that were not relevant in developing the PSD regulations, and any additional considerations relevant to the application of these definitions to requirements for new preconstruction review programs under Section 173. Any comments must be submitted on or before February 15, 1979.

d. *Applicability to modifications accompanied by emission reductions within the same source (intrasource offsets).* Some commenters suggested that the Ruling should be amended to exempt a modification of an existing source which increases allowable emissions by 50 tons per year, 1000 pounds per day, or 100 pounds per hour, or more if there are accompanying reductions within the same source (intrasource offsets) such that the net increase from the source is less than the above amounts, or even that there is a net decrease. It was even suggested that this exemption apply to the addition of new facilities at an existing source. Where a state implementation plan is revised and implemented to satisfy the requirements of Part D, including the reasonable further progress requirement, the plan requirements for major modifications may exempt modifications of existing facilities that are accompanied by intrasource offsets so that there is no net increase in emissions. The Agency endorses such exemptions, which would provide greater flexibility to sources to effectively manage their air emissions at least cost. However, as long as the emission Offset Interpretative Ruling remains operational, the exemption will not be allowed for the reasons stated below. The text of the Ruling is rewritten to state in positive terms that the exemption is not permitted. Since the 1976 Ruling invited public

comment on the requirements for modifications, and since this amendment clarifies the original language without changing the substance, EPA has determined that additional notice and public procedure before making the amendment are unnecessary.

If the Ruling were amended in the suggested manner, a source owner could construct or substantially modify a facility by obtaining only part of the offsets ordinarily required and avoiding the other conditions required for major pollution sources in nonattainment areas prior to there being an adequate Part D implementation plan. This would conflict with several of the basic purposes of the Ruling, which are to assure that sufficient offsets be obtained to represent reasonable progress toward attainment of the applicable standard, that the new facilities meet the lowest achievable emission rate (LAER), and that other sources owned by the applicant be in compliance with the approved SIP or on acceptable compliance schedules. The need to reduce new emissions through these requirements is particularly great before revised plans under Part D are adopted and implemented. Therefore, it is not enough that there be no net increase in emissions; there are additional independent requirements which must be met. There is no reason to depart from this principle simply because offsets happen to come from a facility within the same source. Since the facility will be new or substantially modified, it has an opportunity to employe LAER and satisfy the other requirements like any other source subject to the Ruling. This has been the consistent application of this Ruling.

Unlike this Ruling, EPA's recently-published PSD regulations include an exemption for modifications of existing facilities which are accompanied by sufficient intrasource offsets that there would be no net increase in emissions (see discussion at 43 FR 26394, June 19, 1978). EPA believes that the need to reduce new emissions as much as possible is greater under this Ruling for an area where standards are violated than under the PSD requirements for a clean area where deterioration is the only concern.

Modifications of existing facilities accompanied by sufficient intrasource offsets so that there would be no net increase in emissions may, however, be exempted by the States from the new source review procedures under Part D that will supersede this Ruling. This exemption would not be applicable where a major facility is added to or is reconstructed at a source, whether the addition is to replace production capacity or for growth. The above exemption is permitted under the SIP because, to be approved under Part D, plan revisions due by January 1979 must contain adopted measures assuring that reasonable further progress will be made. Furthermore, in most circumstances, the measures adopted by January 1979 must be sufficient to actually provide for attainment of the standards by the dates required under the Act, and in all circumstances measures adopted by 1982 must provide for attainment. See Section 172 of the Act and 43 FR 21673-21677 (May 19, 1978). Also, Congress intended under Section 173 of the Act that States would have some latitude to depart from the strict requirements of this Ruling when the State plan is revised and is being carried out in accordance with Part D. Under a Part D plan, therefore, there is less need to subject a modification of an existing facility to LAER and other stringent requirements if the modification is accompanied by sufficient intrasource offsets so that there is no net increase in emissions. Consequently, for a plan approved and implemented under Part D, it is acceptable for the State to include the above exemption for intrasource offsets in its new source construction under the State plan and Sections 110(a)(2)(I) and 173(4) must apply to major modifications regardless of intrasource offsets if the plan is found not to satisfy Part D or is not being implemented, because in those instances the plan cannot be relied upon to assure reasonable further progress and, eventually, attainment.

Other Changes to the Ruling

1. *Definition of "significant" air quality impact.* Several commenters requested that EPA provide specific quantification as to the incremental level of pollution that would be considered as contributing to an existing violation of an NAAQS. The Ruling has been revised to include "significance levels" which are generally based on the Class I prevention of significant deterioration (PSD) increments contained in Section 163 of the Act. A new or modified source will not be considered to cause or contribute to a violation of an NAAQS if the air quality impact of the source is less than the specified significance levels. The significance levels are only applicable when a major source is to be located in a "clean" area (i.e., a locality where both the primary and secondary standards are being met), but would impact an area that exceeds an NAAQS some distance away. The significance levels are not intended to be used for PSD purposes where the Class I increments are concerned, nor are they to be used for implementing Condition 4 of Section IV of the Ruling (i.e., emission offsets must result in a net air quality *benefit*). Significance increments are not specified for photochemical oxidants, since atmospheric simulation models are not adequate to predict the air quality impact of a single source of volatile organic compounds (VOC). Further discussion of offsets for VOC sources appears below.

It is possible for a source with a good engineering practice stack height and substantial plume rise, and with very good controls (e.g., particulate matter from fuel combustion sources) to not exceed the significance increments at any location. Thus, such a source would be able to locate just at the edge of a locality where the particulate standard is violated without being subject to the Ruling. This situation would be most common for particulate matter (since controls exceeding 99% are normal) and would rarely occur for the other pollutants.

2. *Relationship of offset requirements to designations of attainment status.* On March 3, 1978, EPA published the attainment status of all States in relation to the NAAQS. 43 FR 8962. However, as noted above, this Ruling has always provided that determinations be made on a case-by-case basis independent of any general determination of nonattainment. 41 FR 55528. Therefore, the determination under this Ruling of whether a source will cause or contribute to a violation of an NAAQS will continue to be made on a case-by-case basis. A source may try to prove that a locality meets an NAAQS even if the locality is part of a designated nonattainment area. There are several reasons for this. First, the initial determinations were made on the basis of 1975 or 1976 air quality data, while the determination of whether a source would cause or contribute to a violation of an NAAQS must be made as of the new source's start-up date. Thus, a source locating in a nonattainment area which is projected to be an attainment area as part of an approved SIP control strategy by the source's start-up date may not be subject to the requirements of the Offset Ruling. Also a State may have designated a large county or air quality control region (AQCR) as nonattainment on the basis of a localized violation of standards in a small portion of the county or AQCR. The designations were designed to provide a starting point for State planning, and were not designed to resolve issues of air quality for purposes of individual permit applications. While not altering the requirement of the Ruling that air quality determinations be made on a case-by-case basis, EPA has amended the language of the Ruling to explain the relationship in practice between the Ruling and the Section 107 designations.[7]

[7] Because these amendments are technical and conforming, and do not change the sub-

Footnotes continued on next page

a. *Sources in attainment or unclassifiable areas.* Certain portions of the Ruling may be applicable in areas designated as attaining the NAAQS or which cannot be classified as to their attainment status. A source locating in such an area which would contribute to a violation of an NAAQS anywhere (i.e., exceed the above significance levels at the site of the violation) must meet Conditions 1, 2 and 4 of Section IV of this Ruling. This is true regardless of the designation that applies to the locality where the violation would occur. Although full emission offsets are not required, such a source must obtain emission offsets sufficient to compensate for its air quality impact where the violation occurs. (States and local agencies are free to require larger offsets if deemed appropriate.)

Most such sources will be subject to prevention of significant deterioration (PSD) requirements, which include a requirement for best available control technology for all pollutants regulated under the Act. In addition, after August 7, 1978, many sources subject to PSD must present air quality monitoring data at the proposed site as part of their application to construct, especially where there is good reason to believe that a new source would cause or worsen a violation of an NAAQS. Thus, major sources applying for a permit after August 7, 1978, will not be exempt from the requirements of this Ruling simply because no air quality data are available to determine whether the source would adversely impact upon an NAAQS.

b. *Sources locating in a "clean" portion of a designated nonattainment area.* A source locating in a clean portion (or which will be clean as of the new source start-up date) of a designated nonattainment area may be exempt from the requirements of this Ruling if the source would not exceed the significance levels discussed above in the *actual* area of nonattainment (as of the new source start-up date). If such a source *would* exceed the significance increments in the actual nonattainment area, it is subject to the same requirements applicable to sources in designated attainment or unclassified areas (i.e., Conditions 1, 2 and 4).

c. *General impact of nonattainment designations on the proceedings.* It will be assumed as the starting point in reviewing a permit application that every location within a designated nonattainment area will exceed the NAAQS (as of the new source start-up date), and that any source with allowable emissions exceeding 50 tons per year, 1000 pounds per day, or 100 pounds per hour locating in the area will significantly contribute to a violation. However, if the applicant or any other participant presents a substantial and relevant argument (including any necessary analysis or other documentation) why that assumption is incorrect, then the applicability of this Ruling would be determined by the specific facts in the case.

3. *Exemptions.* The Ruling has been revised to exempt temporary emissions, such as pilot plants, portable facilities which will be relocated away from the nonattainment area after a short period of time, and emissions resulting from the construction phase of a new source, from the emission offset and net air quality benefit requirements (Conditions 3 and 4 of Section IV of the Ruling). The LAER requirement and other conditions of the Ruling are still applicable to such sources. A similar exemption would also be available to resource recovery facilities utilizing municipal solid waste (including refuse derived fuel and/or sewage sludge from municipal sources) to provide more than 50% of the heat input for generating steam or electricity. In addition, the use of refuse derived fuel in an existing boiler would not qualify as a modification and would not be subject to the Interpretative Ruling.

The exemption for temporary emissions does not change the intent of the original Ruling and is consistent with interpretations issued under the original Ruling. Emissions occurring for less than two years within the nonattainment area would generally be considered temporary. Emissions for longer periods of time might also be considered to be temporary (such as the emissions related to the construction of power plants and other large sources), but should be dealt with on a case-by-case basis.

Again, it should be noted that any source which is exempted from the offset requirements will use up part of the State's allocation for growth at the time such source begins operation. Thus, a State plan may need to require additional control of existing sources (or more rapid compliance) in order to achieve the "annual reasonable further progress toward attainment" required by the Act.

4. *Geographic applicability to major VOC sources.* One of the issues not totally resolved in the December 21, 1976, Ruling was the determination of the areas where offsets for sources of volatile organic compounds (VOC) would be required, especially since atmospheric simulation modeling techniques are generally not available to estimate the air quality impact on an individual VOC source. For rural VOC sources, as for other sources, offsets and other conditions of the Ruling were required for major sources that would cause or contribute to a violation of an NAAQS. Any source locating within a major metropolitan area (over 200,000 population) where the standard was violated was assumed to cause or contribute to the violation. 41 FR 55527 col. 1. However, no firm rules were adopted for application of the Ruling to sources outside of such areas, or for determining where offsets could be found for proposed sources in or out of such areas. Reviewing authorities were left with discretion to determine, on a case-by-case basis, whether any particular proposed rural source would cause or contribute to a violation, or whether any particular emission reduction would constitute an acceptable offset for a proposed source.

The Ruling did refer to a discussion of the rural oxidant problem published in the same FEDERAL REGISTER issue as the Ruling. 41 FR 55528 col 2, 55559-60. This discussion suggested tentative reasons why proposed VOC sources outside of major metropolitan areas should not need offsets, and why sources within such areas should obtain offsets from sources that are also within such areas. however, since that discussion was contained in an advance notice of proposed rulemaking, it was intended only to inform, not to govern individual permit decisions.

On the basis of comments received responding to the advance notice of proposed rulemaking, EPA has developed the proposal for rural VOC sources stated in the Ruling. Comments are invited on this proposal. Until final rulemaking on this issue is completed, this proposal represents EPA's interim policy for determining under this Ruling whether a proposed rural VOC source would cause or contribute to a violation or whether an emission reduction would constitute an acceptable offset for a proposed rural source.

Under the proposal, offsets will generally be required for VOC sources located in or affecting any area that is designated as nonattainment for oxidant or is otherwise shown to be exceeding the NAAQS for oxidant. There are many situations where a source locating outside a nonattainment area may adversely impact upon a nearby locality where the standard is violated. Since photochemical dispersion models are not available to estimate the air quality impact of a single VOC source, it is necessary to use a general approximation of the area around a nonattainment monitor where emissions would reasonably be expected to have an impact on a measured violation. Unless specific data are available to define the impact of a VOC source, offsets should be required for VOC sources locating

Footnotes continued from last page

stance of the Ruling, EPA has determined that notice and public procedures on them are unnecessary.

within 36 hours traveltime (under wind conditions associated with oxidant concentrations exceeding the NAAQS for oxidants) of a nonattainment monitor. This distance is based on evidence which suggests that precursor emissions which occur within 36 hours traveltime of each other interact to form oxidant.

In addition, the changes to the Ruling provide the owner of a proposed VOC source an opportunity to show that the emissions from the proposed source would have "virtually no effect on any area that exceeds the oxidant standard" and therefore the source would be exempt from the Ruling. This exemption is only intended for remote rural sources whose emissions would be very unlikely to interact with other significant sources of VOC or NO_x to form additional oxidant. Such a demonstration might include a showing that the proposed source would be located in an area that is not subject to multi-day stagnation conditions and that VOC and NO_x emissions within the same AQCR or within 36 hours traveltime are minimal. Suggestions from the public are invited on establishing specific criteria or cut-offs to assist applicants in making such a demonstration.

Generally, offsets will be acceptable if obtained from within the same AQCR as the new source or from other nearby areas which may be contributing to the oxidant problem affected by the proposed new source. As with other pollutants, it is desirable to obtain offsets from sources located as close to the proposed new source site as possible. If the proposed offsets would be from sources located at greater distances from the new source, the reviewing authority should increase the ratio of the required offsets and require a showing that nearby offsets were investigated and reasonable alternatives were not available.

5. *Changes to Section IV, Condition 2.* In the original Ruling, the reviewing authority was required to examine all enforcement orders for other sources owned by the applicant in the AQCR to determine if more expeditious compliance was practical. Some commenters pointed out that in interstate AQCR's, the reviewing authority has no control over compliance schedules or enforcement orders in the adjoining State(s). Also, in a very similar provision set forth in Section 173(3) of the Act, the demonstration concerning compliance by other sources owned by the applicant is specified on a state rather than an AQCR basis. Consequently, the Ruling has been changed to be consistent with the provisions in the 1977 Act Amendments. The wording of Condition 2 has also have been changed in accordance with Section 173(3) to clarify the various forms of ownership and control covered by Condition 2. Condition 2 is intended to be applied in a broad sense so as to cover subsidiaries controlled by the applicant and to all facilities owned by any individual business entity that controls a joint enterprise applicant.

For the time being, determinations of what entities control, are controlled by, or are under common control with, the applicant will be made on a case-by-case basis. However, to save time and resources of both applicants and decisionmakers, EPA proposes to establish criteria for determining issues of control. For example, any person with a ten percent voting interest in an entity, or with the power to make or veto decisions by the entity to implement major emission-control measures, might be deemed to control the entity. Such criteria would also be used for determining whether facilities are part of the same source, under Section II.A.1. of this Ruling. Since the definition of "source" is the same under the Agency's PSD regulations as well as this Ruling, the criteria for determining whether facilities are part of the same source are expected to be identical. Comments and suggestions are invited on such criteria for determining control.

6. *Change to Condition 4.* Condition 4 of the original Ruling required that an emission offset must also result in a "net air quality benefit" in the area affected by the new source. In response to questions as to whether an air quality analysis is necessary for VOC and NO_x emissions pursuant to the "net air quality benefit" requirement, the Ruling is clarified to indicate that fulfillment of the emission offset requirements of Condition 3 will be adequate to meet the requirements of Condition 4 for these pollutants.

It should be noted that the "net air quality benefit" test need not be interpreted as requiring an air quality improvement at every location affected by the source. This condition is intended to insure that the sources involved in an offset situation impact air quality in the same general area, but the net air quality benefit test should be made "on balance" for the area affected by the new source.

7. *Elimination of Condition 5.* Condition 5 of the original Ruling contained a prohibition on major source growth after January 1, 1979, in areas where EPA had called for a SIP revision, unless EPA had approved or promulgated the required SIP revision by that date. EPA had issued 221 notices of required SIP revisions in mid-1976. One of the principal purposes of the nonattainment provisions in the 1977 Amendments, however, was to revise this administrative approach. Under the Act, designation of an area as nonattainment constitutes, in effect, a call for a SIP revision. The required contents of the revision and the deadline for submittal are specified in the Act. The Act's revision requirements differ from those established in the Agency's 1976 calls for revisions. Furthermore, the limitation on growth that will result from a failure of the State to comply is set forth in Section 110(a)(2)(I) of the Act. The Administrator has, therefore, concluded that the 1976 calls for SIP revisions for nonattainment areas were superseded by the 1977 Amendments, as was the limitation on growth provided in Condition 5. Therefore, Condition 5 has been deleted from this Ruling.[8]

8. *Baseline where there is no meaningful SIP requirement.* Section IV.C.2 had previously provided that where the particulate emission limit in the SIP for fuel combustion exceeded the uncontrolled emission rate for the fuel being burned (as when a State has a single emission limit for all fuels), emission offset credit would be allowed only for control below the appropriate uncontrolled emission factor. Since this situation may occur for sources other than fuel combustion sources, this provision has been made more general and incorporated in Section IV.C.1.

9. *Fuel conversion.* The Interpretative Ruling as originally published, provided that the use of an alternative fuel would not be considered a modification subject to the Ruling if, prior to December 21, 1976, the sources could accommodate such alternative fuel. In an associated Advance Notice of Proposed Rulemaking published on December 21, 1976 (41 FR 55558), comments were solicited on whether this exemption should apply to sources affecting nonattainment areas. In the Administrator's judgment, the most appropriate way to handle fuel conversions where no major physical modification takes place is through the SIP revision process. In particular, new Section 124 of the Clean Air Act requires States to review their plans to ensure that they will be adequate to attain and maintain the national ambient air quality standards in light of known or anticipated fuel conversions. Furthermore, under Section 172(b)(4), emissions from fuel conversions must be considered in determining periodically whether the plan is adequate to assure attainment by the required date. Therefore, the Ruling still exempts a fuel conversion where the source is designed to accommodate the alternative fuel.

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[8] Since there is no question but that Section 110(a)(2)(I) was intended to supersede Condition 5, and since in any event recisions of the 1976 calls for SIP revisions eliminates any effect of Condition 5, EPA has determined that notice and public procedure on the elimination of Condition 5 are unnecessary.

For purposes of controls to protect air quality in clean areas, and controls that States must adopt in nonattainment areas, Congress provided that "modification" should not include a conversion to an alternative fuel by reason of an order under the Energy Supply and Environmental Coordination Act of 1974 or a natural gas curtailment plan pursuant to the Federal Power Act. see Sections 111(a) (4) and (8), 169(2)(C), and 171(4), 42 U.S.C. 7411(a) (4) and (8), 7479(2)(C), and 7501(4). EPA therefore has decided that it would be consistent with Congressional intent to exclude such conversions from the definition of "modification" in this Ruling as well.

To further conform the Ruling to the Act and avoid confusion, EPA has also qualified the definition of modification by adding the provision that a switch to an alternative fuel by reason of an order or rule under Section 125 of the Act (41 U.S.C. 7425) is not a modification.[9]

In nonattainment areas, States must deal with increased emissions from fuel conversions in their 1979 revisions. For conversions that are not major modifications as defined in the Ruling and for purposes of Part D, the States may deal with increased emissions by any means they choose. A State may include in its control strategy demonstration an assumption that all sources which could reasonably convert to a dirtier fuel will do so. Alternatively, the State may require fuel conversions which are exempt as a modification under the Ruling to obtain a permit prior to converting to an alternate fuel. Such conversions would then be required to obtain offsets on a case-by-case basis or would be reviewed against the allowance for growth provided for in the SIP under Section 172(b)(5). Although conversions that are not major modifications need not satisfy all of the conditions of Section 173, in the interest of simplicity the State may choose to deal with the increased emissions by making the conversions subject to these conditions.

10. *Banking.* One of the issues that was frequently raised in comments on the Ruling involved "banking" of emission reductions to allow for future new source growth. Banking was restricted by EPA because it was felt that banking would create a difficult accounting problem, probably would not result in any environmental benefit, and tended to dilute the potential benefits of the offset policy. However, the advocates of banking felt that if the offsets obtained in a given situation were considerably greater than the new source's emissions, some of the "excess" emission reductions should be "bankable" to allow for future growth. The general argument was that a "no-banking" rule would have an adverse air quality impact (at least in the short-term) by discouraging early clean-up of sources. For example, if a source were undergoing a modernization program, and retiring a number of obsolete facilities, a "no-banking" provision might encourage the owner to delay retirement of several of the facilities so that they could be used in future offset situations. Furthermore, the Clean Air Act Amendments of 1977 modified this restriction by allowing States to incorporate provisions for growth in SIP plans for nonattainment areas. Under Section 173(1) of the Act, emission reductions are compared to a "reasonable further progress" goal, and reductions beyond the minimum requirement may be used to offset future growth. In essence, the State becomes the banker and must decide how to allocate the banked emissions. Therefore, the restriction on banking in the Ruling has been removed for offsets approved after the date of publication of these changes in the FEDERAL REGISTER. States which wish to allow banking may do so, as long as it is recognized that there will be changes in the basis for approval of major new sources after June 30, 1979.

A reviewing authority may allow banked offsets to be used under the preconstruction review program required by Part D, as long as these banked emissions are identified and accounted for in the SIP control strategy. So long as the pollution control requirements under the Act are satisfied, the State is free to govern ownership, use, sale, and commercial transactions in banked emission offsets as it sees fit. A reviewing authority may not approve the construction of a source using banked offsets if the new source would interfere with the SIP control strategy or if such use would violate any other condition set forth for use of offsets. To preserve banked emission reductions, the reviewing authority must identify them in either a SIP revision or a permit. Furthermore, the reviewing authority should provide a registry to identify the person, private entity, or governmental authority that has the right to use or allocate the banked emission reductions, and to record any transfers of, or liens on, this right that the reviewing authority may allow. Additional comments on how banking should be implemented are solicited.

11. *Source shutdowns and curtailments.* A sub-issue related to banking is the credit which may be taken for source shutdowns or curtailments occurring prior to the date the new source application is filed. Footnote 7 of the original Ruling had restricted offset credit to situations where the shutdown or curtailment occurred as a result of an enforcement action and the new source was clearly a replacement. The Ruling has been changed to eliminate the requirement that a prior shutdown be related to an enforcement action in order to be used as offset credit. However, to ensure that an offset relates to the current air quality problem, it is necessary to put some limit on the credit that can be taken for shutdowns that have taken place in the past. Therefore, the Ruling requires that a source shutdown or curtailment must have occurred after the date of enactment of the 1977 Amendments or less than one year prior to the date the new source permit application is filed, whichever is earlier, in order to be acceptable as offset credit. Such credits may be banked, subject to the limitations outlined above.

12. *Equivalency of State regulations.* Some States have, or may wish to develop, offset regulations which differ in some of the details from the EPA Interpretative Ruling. EPA intends to approve such regulations if the State submits a demonstration that the overall impact on emissions in the areas where the regulation will apply is at least as stringent as the EPA Interpretative Ruling. At a minimum, the State regulations must contain the four major conditions specified in Section IV.A. These constraints do not apply to offset regulations applying after June 30, 1979, in accordance with the requirements of Section 173(1)(A); separate guidance will be issued for meeting these requirements. Nor does this apply to general waivers of the requirements of this Ruling, under Section 129(a)(2) of the Clean Air Act Amendments of 1977 (note under 42 U.S.C. § 7502).

13. *Technology transfer in determining LAER.* It has been EPA's interpretation that in determining the lowest achievable emission rate (LAER), the reviewing authority may consider transfer of technology from one source type to another where such technology is applicable. Although Congress changed the definition of LAER, EPA continues to believes that technology transfer may be considered in determining LAER. Congress intended to require new sources in nonattainment areas to apply the "maximum feasible pollution control," even if this involves "technology-forcing."[10] Therefore, the Agency does not feel

[9] EPA has determined that notice and public procedure prior to making this minor conforming amendment are unnecessary.

[10] See report to accompany H.R. 6161, H.R. Rep. No. 95-294, 95th Congress, First Session 215 (May 12, 1977). Furthermore, technology transfer and technology forcing are accepted concepts in determining both new source performance standards and reasonably available control technology under the Act.

that the phrase "achieved in practice by such class or category of source" (under Section 171(3)) prohibits technology transfers from other types of sources. If pollution-control technology can feasibly be transferred from one type of source to another, then for purposes of determining LAER, EPA will consider both types of source to be in the same "class or category of source." Comments on this interpretation and whether it is necessary or appropriate to revise the regulatory definition are solicited.

14. *Fugitive dust.* As noted above, an Advance Notice of Proposed Rulemaking was published on December 21, 1976 (41 FR 55558) which dealt with several issues closely related to the Interpretative Ruling published on the same date. Comments were urged to be submitted on both notices in a consolidated fashion.

One of the issues raised related to how fugitive dust, particularly rural fugitive dust which may significantly contribute to violations of the NAAQS for particulate matter, should be accounted for in performing new source reviews. This issue was also raised in conjunction with EPA's proposed PSD regulations. On the basis of comments received responding to the Advance Notice of Proposed Rulemaking, EPA has developed the proposal for fugitive dust associated with major sources stated in this Ruling. Comments are invited on this proposal. Until the final rulemaking on this issue is completed, this proposal represents EPA's interim policy for dealing with fugitive dust associated with a major source. Under the proposal, fugitive dust associated with major sources locating in clean portions of nonattainment areas or in attainment or unclassified areas would be subject only to applicable requirements for preventing significant deterioration of air quality (see 40 CFR 52.21). Under the PSD regulations, fugitive dust associated with a major source is subject to the best available control technology requirements, but is exempt from a review against the NAAQS and PSD increments. Fugitive dust associated with major sources locating in an actual nonattainment area [11] (and which is not exempt as a temporary source) would be subject to Conditions 1, 2 and 3 of Section IV.A. of this Ruling.

15. *Secondary emissions.* The original Ruling required that if a major new source would result in secondary emissions which could be accurately quantified, such emissions should also be dealt with under the Ruling (see footnote 3 at 41 FR 55528). Questions have arisen on the Agency's intent regarding secondary emissions, and further clarification is provided in the changes published today. A more specific definition is added as follows:

> "Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a major source or major modification, but do not come from the source itself. For purposes of this ruling, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general nonattainment area as the major source which causes the secondary emissions. Secondary emissions may include, but are not limited to:
>
> a. Emissions from ships or trains coming to or from a refinery, terminal facility, etc.
>
> b. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a major source.

The Ruling indicates that secondary emissions need not be considered in determining whether the emission rates in Section II.C. would be exceeded. However, if a source is subject to the Ruling on the basis of the direct emissions from the source, the applicable conditions of this Ruling must also be met for secondary emissions.

The requirement that secondary emissions must impact the same general nonattainment area as the major source which causes the secondary emission means different areas for different pollutants. For all pollutants, however, the test is whether, in the actual area of nonattainment, there is any overlap between the areas of impact of the direct emissions and the indirect emissions. This is a pollutant-by-pollutant analysis. In other words, the conditions of the Ruling must be met for secondary emission of a particular pollutant only if the major source is subject to the Ruling conditions on the basis of direct emission of that same pollutant.

For nitrogen oxides, particulates, carbon monoxide, and SO_2, the areas of impact can be determined by modeling. If the source and the permitting authority disagree as to whether the secondary emissions impact the same area as the direct emissions, the source has the burden of proving it is correct by performing the necessary modeling. For VOC emissions, the areas of impact should be consistent with the treatment given to the direct emissions (see previous discussion on VOC sources). Under the proposal for VOC sources, the area of impact would be the areas to which the pollutants could be transported in 36 hours from the sources, assuming wind conditions associated with oxidant concentrations exceeding the NAAQS for oxidants (unless more specific data on source impacts are available).

A corollary of this aspect of the definition is that secondary emissions must be traceable to particular facilities. If this were not true, it would be impossible to determine the area of impact of the indirect emissions. Thus, for example, a new steel plant necessitates more electric power being produced; but if the power is supplied from a grid covering many States, the emissions could not be quantified and would not impact the same general nonattainment area. On the other hand, increased particulate emissions from a coke plant near the same steel plant would be considered to be secondary emissions if certain conditions were met. Those conditions would be that the emissions came from an existing coke plant which was not previously subject to the Ruling for those emissions, the coke plant emissions were increased above historical levels as a result of additional demand from the steel plant, and the coke plant was situated near the steel plant. The coke plant emissions are specific, quantifiable, and impact the same general nonattainment area as the direct emissions.

Since the 1976 Ruling invites public comment on the treatment of secondary emissions, and since this amendment to the Ruling only clarifies the language without altering the substance, EPA has determined that additional notice and public procedure thereon are unnecessary.

16. *Applicability of Ruling to new or revised NAAQS.* While this Ruling technically does not apply to new sources of lead emissions which would cause or contribute to a violation the newly established NAAQS for lead (43 FR 46246) during the period before the revised lead SIP's are submitted and approved, it is clear that such sources will be required to abate their emissions after construction if necessary to attain and maintain the lead standard. In addition, excessive lead emissions from a new source could result in health problems. Accordingly, States are urged to use their available authorities to review new sources of lead to protect against violations of the lead standard. The Ruling will continue to apply to VOC sources which cause or contribute to violations of the NAAQS for photochemical oxidant (ozone) which will be revised shortly (see proposal of June 28, 1978, 43 FR 26962). Specific proposals for dealing with new sources of pollutants subject to new or revised NAAQS in the context of the revised SIP's will be included in upcoming changes to 40 CFR 51.18.

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[11] Under existing EPA policy, a rural area that exceeds the NAAQS for particulate matter primarily because of fugitive dust emissions is not necessarily considered as nonattainment for purposes of SIP development and new source review (see "Fugitive Dust Policy: SIP's and New Source Review," available from EPA, Air Pollution Technical Information center, MD-35, Research Triangle Park, N.C. 27711.)

SEVERABILITY

EPA intends that the changes made by this notice be treated as severable. If a court should rule that one or more of the changes is not valid, EPA intends that the other changes remain in effect and that the provisions of the December 1976 Ruling that would have been amended by the invalid changes be in effect, unless the court rules that some other disposition is legally required.

The Agency finds good cause to make the changes announced today effective for permit applications filed on or after today, because the normal processing time between permit application and source construction provides adequate lead time for compliance with new requirements in the Ruling.

AUTHORITY

The Administrator has determined that this rulemaking is nationally applicable and is based on determinations of nationwide scope and effect. This rulemaking is issued under Section 129(a) of the Clean Air Act Amendments of 1977, Pub. L. 95-95, 91 Stat. 745, August 7, 1977 (note under 42 U.S.C. 7502) and Section 301 of the Clean Air Act (42 U.S.C. 7601).

Dated: December 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

The Interpretative Ruling published by EPA on December 21, 1976, at 41 FR 55524, is revised and codified as a new Appendix S to 40 CFR Part 51. In the footnote to 40 CFR 51.18 "41 FR 55528, December 21, 1976," is deleted and "Appendix S" is inserted in its place. As revised Appendix S reads as follows:

APPENDIX S—EMISSION OFFSET INTERPRETATIVE RULING

I. INTRODUCTION

This appendix sets forth EPA's Interpretative Ruling on the preconstruction review requirements for stationary sources of air pollution (not including indirect sources) under 40 CFR 51.18 and Section 129 of the Clean Air Act Amendments of 1977, Pub. L. 95-95, (note under 42 U.S.C. § 7502). A major new source or modification which would contribute to a violation of a national ambient air quality standard (NAAQS) may be allowed to construct only if the stringent conditions set forth below are met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that there will be progress toward achievement of the NAAQS.

For each area designated as exceeding an NAAQS (nonattainment area) under 40 CFR 81.300 *et seq.*, this Interpretative Ruling will be superseded after June 30, 1979—(a) by preconstruction review provisions of the revised SIP, if the SIP meets the requirements of Part D, Title 1, of the Act; or (b) by a prohibition on construction under the applicable SIP and Section 110(a)(2)(I) of the Act, if the SIP does not meet the requirements of Part D. The Ruling will remain in effect to the extent not superseded under the Act. This prohibition on major new source construction does not apply to a source whose permit to construct was applied for during a period when the SIP was in compliance with Part D, or before the deadline for having a revised SIP in effect that satisfies Part D.

II. INITIAL SCREENING ANAYLSES AND DETERMINATION OF APPLICABLE REQUIREMENTS

A. *Definitions.* For purposes of this Ruling:

1. "Source" Means any structure, building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

2. "Facility" means an identifiable piece or process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

3. "Potential" to emit means the maximum capacity to emit a pollutant absent air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

4. "Major source" means any source for which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds, or carbon monoxide.

5. "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant specified in Section A.4. above (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since February 16, 1979, or since the time of the last construction approval issued for the source pursuant to this Ruling, whichever time is more recent, and regardless of any emission reductions achieved eleswhere in the source) by 100 tons per year or more.

(i) A physical change shall not include routine maintenance, repair, and replacement.

(ii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(a) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) An increase in the hours of operation;

(c) Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material;

(d) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(e) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(f) Change in ownership of a source; or

(g) Use of refuse derived fuel generated from municipal solid waste.

6. "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit operating rate, or hours of operation, or both) and the most stringent of the following:

(i) Applicable new source performance standards or standards for hazardous pollutants set forth in 40 CFR Part 60 or 61;

(ii) Applicable SIP emission limitation; or

(iii) The emission rate specified as an enforceable permit condition.

7. "Lowest achievable emission rate" means, for any source, that rate of emissions based on the following, whichever is more stringent:

(i) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(ii) The most stringent emission limitation which is achieved in practice by such class or category of source.

This term, applied to a modification, means the lowest achievable emission rate for the new or modified facilities within the source. In no event shall the application of this term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

8. "Fugitive dust" means particulate emissions composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive dust may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles and other activities in which soil is either removed, stored, transported, or redistributed.

9. "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceed 50 percent of the fixed capital cost of a comparable entirely new facility. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed facility will be treated as a new facility for purposes of this Ruling, except that use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under Section 125 of the Act, shall not be considered reconstruction.

In determining LAER for a reconstructed source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such source.

10. "Fixed capital cost" means the capital needed to provide all the depreciable components.

11. "Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a major source or major modification, but do not come from the source itself. For purposes of this Ruling, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general nonattainment area as the major source which causes the secondary emission. Secondary emissions may include, but are not limited to:

a. Emissions from ships or trains coming to or from a refinery, terminal facility, etc.

b. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a major source.

12. "Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50% of the heat input to be considered a resource recovery facility under this Ruling.

B. *Review of all sources for emission limitation compliance.* The reviewing authority must examine each proposed major new source and proposed major modification [1] to determine if such a source will meet all applicable emission requirements in the SIP, any applicable new source performance standard in 40 CFR Part 60, or any national emission standard for hazardous air pollutants in 40 CFR Part 61. If the reviewing authority determines that the proposed major new source cannot meet the applicable emission requirements, the permit to construct must be denied.

C. *Review of specified sources for air quality impact.* In addition, for each proposed major new source with allowable emissions exceeding 50 tons per year, 1000 pounds per day, or 100 pounds per hour, whichever is most restrictive, the reviewing authority must determine if the source will cause or contribute to a violation of an NAAQS.[2] A proposed source which would not exceed any of the above emission levels needs no further analysis under this ruling, provided such a source meets the requirements of Section II. B.

Where a source is constructed or modified in increments which individually do not emit more than the above amounts and the increments have not been offset in accordance with this Ruling, the allowable emissions from all such increments granted a permit to construct after December 21, 1976, shall be added together and this Ruling may be applicable when a proposed increment would cause the sum of the allowable emissions which have not been offset to equal or exceed 50 tons per year, 1000 pounds per day, or 100 pounds per hour. If the total modification would cause or contribute to a violation of the NAAQS, all of the provisions of this Ruling are then applicable to each increment. If any of the increments has not previously been subject to Condition 1 of Section IV.A. (requiring the source to meet the lowest achievable emission rate), such determination must consider the stage of construction of such increment and the ability of the source to install additional control equipment.

For "stable" air pollutants (i.e., SO_2, particulate matter and CO), the determination of whether a source will cause or contribute to a violation of an NAAQS generally should be made on a case-by-case basis as of the proposed new source's start-up date using the source's allowable emissions in an atmospheric simulation model (unless a source will clearly impact on a receptor which exceeds an NAAQS).

For sources of nitrogen oxides, the initial determination of whether a source would cause or contribute to a violation of the NAAQS for NO_2 should be made using an atmospheric simulation model assuming all the nitric oxide emitted is oxidized to NO_2 by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate.

For photochemical oxidants, sources of volatile organic compounds (VOC) locating in areas designated under 40 CFR 81.300 *et seq.* as nonattainment for photochemical oxidant or otherwise shown to be in violation of the NAAQS for oxidant shall be subject to the provisions of Section IV of this Ruling. In addition, VOC sources locating within 36 hours travel time (under wind conditions associated with concentrations exceeding the NAAQS for oxidants) of a nonattainment monitor shall also be subject to Section IV of this Ruling. However, a VOC source may be exempt from these requirements if the source owner can demonstrate that the emissions from the proposed source will have virtually no effect upon any area that exceeds the NAAQS for photochemical oxidant. This exemption is only intended for remote rural sources whose emissions would be very unlikely to interact with other significant sources of VOC or NO_x to form additional oxidant.[3]

As noted above, the determination as to whether a source would cause or contribute to a violation of an NAAQS should be made as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

D. *Sources locating in a "clean" portion of a designated nonattainment area.* A source locating in a clean portion (or which will be clean as of the new source start-up date) of a nonattainment area designated pursuant to Section 107 of the Act may be exempt from the requirements of this ruling if the allowable emissions from the source or facility (not including any emission reductions achieved elsewhere in the source) would not cause the following significance levels to be exceeded in the *actual* area of non-attainment (as of the new source start-up date):

Pollutant	Averaging Time				
	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO_2	1.0 μg/m³	5 μg/m³		25 μg/m³	
TSP	1.0 μg/m³	5 μg/m³			
NO_2	1.0 μg/m³				
CO			0.5 mg/m³		2 mg/m³

No significance increments are applicable for hydrocarbons or photochemical oxidants. If the source would exceed the significance levels in the portion of the designated nonattainment area where the NAAQS is actually violated (actual area of nonattainment), all requirements of this Ruling (except Condition 3 of Section IV.A.) would be applicable.

It will be assumed as the starting point in reviewing a permit application that every locality in a designated nonattainment area will exceed the NAAQS (as of the new source start-up date), and that any major source locating in the area will significantly contribute to the violation. However, if the applicant or any other participant presents a substantial and relevant argument (including any necessary analysis or other demonstration) why that assumption is incorrect, then the applicability of this Ruling would be determined by the specific facts in the case.

E. *Sources in attainment or unclassifiable areas.* For areas designated under 40 CFR 81.300 *et. seq.* as attainment or unclassifiable for the NAAQS, sources locating in such areas which would exceed the above significance increments at any locality that does not meet the NAAQS are subject to this Ruling. However, such a source may be exempted from Condition 3 of Section IV.A. of this Ruling.

F. *Fugitive dust sources.*[3] Fugitive dust associated with major sources locating in clean portions of designated nonattainment areas or in designated attainment or unclassifiable areas shall be subject only to applicable requirements for preventing significant deterioration of air quality (see 40 CFR 52.21). Fugitive dust associated with major sources locating in an actual area of nonattainment shall be subject to Conditions 1, 2 and 3 of Section IV.A. of this Ruling.

G. *Secondary emissions.* Secondary emissions need not be considered in determining whether the emission rates in Section II.C. above would be exceeded. However, if a

[1] Hereafter the term "source" will be used to denote both any source and any modification.

[2] Required only for those pollutants for which the increased allowable emissions exceed 50 tons per year, 1000 pounds per day, or 100 pounds per hour, although the reviewing authority may address other pollutants if deemed appropriate. The preceding hourly and daily rates shall apply only with respect to a pollutant for which a national ambient air quality standard, for a period less than 24-hours or for a 24-hour period, as appropriate, has been established.

[3] The discussion in this paragraph is a proposal, but represents EPA's interim policy until final rulemaking is completed.

source is subject to this Ruling on the basis of the direct emissions from the source, the applicable conditions of this Ruling must also be met for secondary emissions. However, if the secondary emissions are not under the control of the applicant, such secondary emissions may be exempt from Conditions 1 and 2 of Section IV. Also, since EPA's authority to perform or require indirect source review relating to mobile sources regulated under Title II of the Act (motor vehicles and aircraft) has been restricted by statute, consideration of the indirect impacts of motor vehicles and aircraft traffic is not required under this Ruling.

III. Sources Locating in "Clean Areas", but Would Cause a New Violation of an NAAQS

If the reviewing authority finds that the emissions from a proposed source would cause a new violation of an NAAQS, but would not contribute to an existing violation, approval may be granted only if both of the following conditions are met:

Condition 1. The new source is required to meet a more stringent emission limitation [4] and/or the control of existing sources below allowable levels is required so that the source will not cause a violation of any NAAQS.

Condition 2. The new emission limitations for the new source as well as any existing sources affected must be enforceable in accordance with the mechanisms set forth in Section V below.

IV. Sources That Would Contribute to Concentrations Which Exceed an NAAQS

A. *Conditions for approval.* If the reviewing authority finds that the emissions from a proposed source would contribute to concentrations which exceed an NAAQS as of the source's proposed start-up date, approval may be granted only if the following conditions are met:

Condition 1. The new source is required to meet an emission Limitation [4] which specifies the lowest achievable emission rate for such source.[5]

Condition 2. The applicant must certify that all existing major sources [5] owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the appplicant) in the same State as the proposed source are in compliance with all applicable emission limitations and standards under the Act (or are in compliance with an expeditious schedule which is Federally enforceable or contained in a court decree).

Condition 3. Emission reductions ("offsets") from existing sources in the area of the proposed source (whether or not under the same ownership) are required such that there will be reasonable progress toward attainment of the applicable NAAQs.[5] Only intrapollutant emission offsets will be acceptable (e.g., hydrocarbon increases may not be offset against SO_2 reductions).

Condition 4. The emission offsets will provide a positive net air quality benefit in the affected area (see Section IV.D. below). [5] Atmospheric simulation modeling is not necessary for volatile organic compounds and NO_x. Fulfillment of Condition 3 and Section IV.D. will be considered adequate to meet this condition.

B. *Exemptions from certain conditions.* The reviewing authority may exempt the following sources from Condition 1 under Section III or Conditions 3 and 4. Section IV.A.: (i) Resource recovery facilities burning municipal solid waste, and (ii) sources which must switch fuels due to lack of adequate fuel supplies or where a source is required to be modified as a result of EPA regulations (e.g., lead-in-fuel requirements) and no exemption from such regulation is available to the source. Such an exemption may be granted only if:

1. The applicant demonstrates that it made its best efforts to obtain sufficient emission offsets to comply with Condition 1 under Section III or Conditions 3 and 4 under Section IV.A. and that such efforts were unsuccessful;

2. The applicant has secured all available emission offsets; and

3. The applicant will continue to seek the necessary emission offsets and apply them when they become available.

Such an exemption may result in the need to revise the SIP to provide additional control of existing sources.

Temporary emission sources, such as pilot plants, portable facilities which will be relocated outside of the nonattainment area after a short period of time, and emissions resulting from the construction phase of a new source, are exempt from Conditions 3 and 4 of this Section.

C. *Baseline for determining credit for emission and air quality offsets.* The baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP. Emission offsets generally should be made on a pounds per hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected or allowed production rate. The reviewing agency should specify other averaging periods (e.g., tons per year) in addition to the pounds per hour basis if necessary to carry out the intent of this Ruling. When offsets are calculated on a tons per year basis, the baseline emissions for existing sources providing the offsets should be calculated using the actual annual operating hours for the previous one or two year period (or other appropriate period if warranted by cyclical business conditions). Where the SIP requires certain hardware controls in lieu of an emission limitation (e.g., floating roof tanks for petroleum storage), baseline allowable emissions should be based on actual operating conditions for the previous one or two year period (i.e., actual throughput and vapor pressures) in conjunction with the required hardware controls.

1. *No meaningful or applicable SIP requirement.* Where the applicable SIP does not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions determined in accordance with the discussion above regarding operating conditions.

Where the SIP emission limit allows greater emissions than the potential emission rate of the source (as when a State has a single particulate emission limit for all fuels), emission offset credit will be allowed only for control below the potential emission rate.

2. *Combustion of fuels.* Generally, the emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the SIP for the type of fuel being burned at the time the new source application is filed (i.e., if the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction [either actual or allowable] shall not be used for emission offset credit). If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is not acceptable unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date. The reviewing authority should ensure that adequate long-term supplies of the new fuel are available before granting emission offset credit for fuel switches.

3. *Operating hours and source shutdown.* A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels (see initial discussion to this Section C) provided, that the work force to be affected has been notified of the proposed shutdown or curtailment. Emission offsets that involve reducing operating hours or production or source shutdowns must be legally enforceable, as in the case for all emission offset situations.[6]

4. *Credit for hydrocarbon substitution.* As set forth in the Agency's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), EPA has found that almost all non-methane hydrocarbons are photochemically reactive and that low reactivity hydrocarbons even-

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[4] If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the authority may instead prescribe a design, operational or equipment standard. In such cases, the reviewing authority shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the required submission to EPA (see Part V). Any permits issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained (or that the operational conditions will be properly performed) so as to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under Section 304. Hereafter, the term "emission limitation" shall also include such design, operational, or equipment standards.

[5] Subject to the provisions of section IV.C. below.

[6] Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.

tually form as much photochemical oxidant as the highly reactive hydrocarbons. Therefore, no emission offset credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of the above policy statement.

5. *"Banking" of emission offset credit.* For new sources obtaining permits by applying offsets after January 16, 1979, the reviewing authority may allow offsets that exceed the requirements of reasonable progress toward attainment (Condition 3) to be "banked" (i.e., saved to provide offsets for a source seeking a permit in the future) for use under this Ruling. Likewise, the reviewing authority may allow the owner of an existing source that reduces its own emissions to bank any resulting reductions beyond those required by the SIP for use under this Ruling, even if none of the offsets are applied immediately to a new source permit. A reviewing authority may allow these banked offsets to be used under the preconstruction review program required by Part D, as long as these banked emissions are identified and accounted for in the SIP control strategy. A reviewing authority may not approve the construction of a source using banked offsets if the new source would interfere with the SIP control strategy or if such use would violate any other condition set forth for use of offsets. To preserve banked offsets, the reviewing authority should identify them in either a SIP revision or a permit, and establish rules as to how and when they may be used.

D. *Location of offsetting emissions.* In the case of emission offsets involving volatile organic compounds (VOC), the offsets may be obtained from sources located anywhere in the broad vicinity of the proposed new source. Generally, offsets will be acceptable if obtained from within the same AQCR as the new source or from other areas which may be contributing to the oxidant problem at the proposed new source location. As with other pollutants, it is desirable to obtain offsets from sources located as close to the proposed new source site as possible. If the proposed offsets would be from sources located at greater distances from the new source, the reviewing authority should increase the ratio of the required offsets and require a showing that nearby offsets were investigated and reasonable alternatives were not available.[3]

Offsets for NO_x sources may also be obtained within the broad area of nonattainment. This is because areawide oxidant and NO_2 levels are generally not as dependent on specific hydrocarbon or NO_x source location as they are on overall area emissions. Since the air quality impact of SO_2, particulate and carbon monoxide sources is site dependent, simple areawide mass emission offsets are not appropriate. For these pollutants, the reviewing authority should consider atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit. However, to avoid unnecessary consumption of limited, costly and time consuming modeling resources, in most cases it can be assumed that if the emission offsets are obtained from an existing source on the same premises or in the immediate vicinity of the new source, and the pollutants disperse from substantially the same effective stack height, the air quality test under Condition 4 of Section IV.A. above will be met. Thus, when stack emissions are offset against a ground level source at the same site, modeling would be required. The reviewing authority may perform this analysis or require the applicant to submit appropriate modeling results.

E. *Reasonable progress towards attainment.* As long as the emission offset is greater than one-for-one, and the other criteria set forth above are met, EPA does not intend to question a reviewing authority's judgment as to what constitutes reasonable progress towards attainment as required under Condition 3 in Section IV.A. above. This does not apply to "reasonable further progress" as required by Section 173.

V. ADMINISTRATIVE PROCEDURES

The necessary emission offsets may be proposed either by the owner of the proposed source or by the local community or the State. The emission reduction committed to must be enforceable by authorized State and/or local agencies and under the Clean Air Act, and must be accomplished by the new source's start-up date. If emission reductions are to be obtained in a State that neighbors the State in which the new source is to be located, the emission reductions committed to must be enforceable by the neighboring State and/or local agencies and under the Clean Air Act. Where the new facility is a replacement for a facility that is being shut down in order to provide the necessary offsets, the reviewing authority may allow up to 180 days for shakedown of the new facility before the existing facility is required to cease operation.

A. *Source initiated emission offsets.* A source may propose emission offsets which involve: (1) Reductions from sources controlled by the source owner (internal emission offsets); and/or (2) reductions from neighboring sources (external emission offsets). The source does not have to investigate all possible emission offsets. As long as the emission offsets obtained represent reasonable progress toward attainment, they will be acceptable. It is the reviewing authority's responsibility to assure that the emission offsets will be as effective as proposed by the source. An internal emission offset will be considered enforceable if it is made a SIP requirement by inclusion as a condition of the new source permit and the permit is forwarded to the appropriate EPA Regional Office.[7] An external emission offset will not be enforceable unless the affected source(s) providing the emission reductions is subject to a new SIP requirement to ensure that its emissions will be reduced by a specified amount in a specified time. Thus, if the source(s) providing the emission reductions does not obtain the necessary reduction, it will be in violation of a SIP requirement and subject to enforcement action by EPA, the State and/or private parties.

The form of the SIP revision may be a State or local regulation, operating permit condition, consent or enforcement order, or any other mechanism available to the State that is enforceable under the Clean Air Act. If a SIP revision is required, the public hearing on the revision may be substituted for the normal public comment procedure required for all major sources under 40 CFR 51.18. The formal publication of the SIP revision approval in the FEDERAL REGISTER need not appear before the source may proceed with construction. To minimize uncertainity that may be caused by these procedures, EPA will, if requested by the State, propose a SIP revision for public comment in the FEDERAL REGISTER concurrently with the State public hearing process. Of course, any major change in the final permit/SIP revision submitted by the State may require a reproposal by EPA.

B. *State or community initiated emission offsets.* A State or community which desires that a source locate in its area may commit to reducing emissions from existing sources (including mobile sources) to sufficiently outweigh the impact of the new source and thus open the way for the new source. As with source-initiated emission offsets, the commitment must be something more than one-for-one. This commitment must be submitted as a SIP revision by the State.

VI. POLICY WHERE ATTAINMENT DATES HAVE NOT PASSED

In some cases, the dates for attainment of primary standards specified in the SIP under Section 110 have not yet passed due to a delay in the promulgation of a plan under this section of the Act. In addition the Act provides more flexibility with respect to the dates for attainment of secondary NAAQS than for primary standards. Rather than setting specific deadlines, Section 110 requires secondary NAAQS to be achieved within a "reasonable time". Therefore, in some cases, the date for attainment of secondary standards specified in the SIP under Section 110 may also not yet have passed. In such cases, a new source which would cause or contribute to an NAAQS violation may be exempt from the Conditions of Section IV.A. so long as the new source meets the applicable SIP emission limitations and will not interfere with the attainment date specified in the SIP under Section 110 of the Act.

(Sec. 129(a), Pub. L. 95-95 (note under 42 U.S.C. 7502), and Sec. 301 of the Clean Air Act, as amended (42 U.S.C. 7601).)

[FR Doc. 79-1423 Filed 1-15-79; 8:45 am]

[7] The emission offset will, therefore, be enforceable by EPA under Section 113 as an applicable SIP requirement and will be enforceable by private parties under Section 304 as an emission limitation.

[6560-01-M]

[FRL 1031-3]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for U.S. Air Force 928th Tactical Airlift Group

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule the Administrator of U.S. EPA issues a Delayed Compliance Order to the U.S. Air Force 928th Tactical Airlift Group (Air Force). The Order requires the Air Force to bring air emissions from its building 1 Heating Plant, Chicago, Illinois, into compliance with certain regulations contained in the federally approved Illinois State Implementation Plan (SIP). The Air Force's com-

pliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order.

DATE: This rule takes effect on January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Louise Gross, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 12, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40539) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Air Force. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the Air Force by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Air Force on a schedule to bring its Building 1 Heating Plant at Chicago, Illinois, into compliance as expeditiously as practicable with Illinois Pollution Control Board Rule 203, a part of the federally approved Illinois State Implementation Plan. The Air Force is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Air Force to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by the Air Force will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Air Force is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final agency action for the purpose of judicial review under Section 307(b) of the Act. U.S. EPA has determined that the Order shall be effective January 16, 1979 because of the need to immediately place the Air Force on a schedule for compliance with the Illinois State implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 8, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.180 to read as follows:

§ 65.180 Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act.

* * * * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
U.S. Air Force 928th Tactical Airlift Group.	Chicago, Ill.....	EPA-5-79-A-13...	Sept. 12, 1978	Rule 203.....	July 1, 1979

[FR Doc. 79-1425 Filed 1-15-79; 8:45 am]

[6560-01-M]

[FRL 1031-4]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Owensboro Municipal Utilities, Owensboro, Ky.

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to Owensboro Municipal Utilities (OMU). The Order requires the company to bring air emissions from its Elmer Smith facility in Owensboro, Kentucky, into compliance with certain regulations contained in the federally-approved Kentucky State Implementation Plan (SIP). OMU's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30308, telephone number: (404) 881-4298.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On September 27, 1978, the Regional Administrator of EPA's Region IV Office published in the FEDERAL REGISTER, 43 FR 43738 (1978), a notice setting out the provisions of a proposed delayed compliance order for OMU. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to the Elmer Smith facility of Owensboro Municipal Utilities by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places OMU on a schedule to bring its coal-fired steam generating units at its Elmer Smith facility in Owensboro, Kentucky, into compliance as expeditiously as practicable with Kentucky Air Pollution Control Regulation 401 KAR 3:060 Section 3(3)(e), a part of the federally-approved Kentucky State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the

Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Elmer Smith facility of OMU to delay compliance with the SIP regulations covered by the Order until December 31, 1978. The company is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective January 16, 1979, because of the need to immediately place OMU on a schedule for compliance with the applicable requirement(s) on the Kentucky State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 8, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.220 to read as follows:

§ 65.220 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

. . . . . .

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Owensboro Municipal Utilities.	Owensboro, Ky...	DCO-78-11	401 KAR 3:060 Section 3(3)e.	Sept. 27, 1978	Dec. 31, 1978

[FR Doc. 79-1426 Filed 1-15-79; 8:45 am]

[6560-01-M]

[FRL 1031-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Defense Logistics Agency, Defense Electronics Supply Center

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Defense Logistics Agency, Defense Electronics Supply Center (Defense Logistics Agency). The Order requires the facility to bring air emissions from its four boilers at Dayton, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Defense Logistics Agency's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order.

DATES: This rule takes effect on January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Louise C. Gross, Attorney, United States Environmental Protection Agency, Region V, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40041) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Defense Logistics Agency. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the Defense Logistics agency by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Defense Logistics Agency on a schedule to bring its boilers at Dayton, Ohio, into compliance as expeditiously as practicable with Regulation OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. The Defense Logistics Agency is unable to immediately comply with the regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Defense Logistics Agency to delay compliance with the SIP regulation covered by the Order until March 30, 1979.

Compliance with the Order by the Defense Logistics Agency will preclude Federal enforcement action under Section 113 of the Act for violation of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Defense Logistics Agency is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective January 15, 1979 because of the need to immediately place the Defense Logistics Agency on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 8, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

. . . . . .

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Defense Logistics Agency Defense Electronics Supply Center.	Dayton, Ohio	EPA-5-79-A-3.....	Sept. 8, 1978..	OAC 3745-17-10.	Mar. 30, 1979

[FR Doc. 79-1427 Filed 1-15-79; 8:45 am]

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Quality Control and Proficiency Testing Standards For Laboratories in Medicare Hospitals

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: These amendments revise the Medicare regulations to provide that the quality control and proficiency testing requirements used by the Joint Commission on the Accreditation of Hospitals (JCAH) in accrediting hospital laboratories are now equivalent to those established by the Department. This change reflects the results of a reevaluation made by the Department of the upgraded standards adopted by JCAH and the actions taken by JCAH to implement these standards. The Department (Center for Disease Control, Public Health Service (CDC/PHS)) will monitor the JCAH's performance in applying the standards. The finding of CDC/PHS monitoring will be used by HCFA to verify the equivalence of the JCAH standards to the Federal standards.

The amendments will eliminate the need for State health agency inspection of JCAH-accredited hospital laboratories.

EFFECTIVE DATE: These amendments are effective on November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Martha Chestem, 301-594-7930.

SUPPLEMENTARY INFORMATION: Under Section 1861(e) of the Social Security Act, the Secretary is authorized to establish standards to insure the health and safety of individuals to whom services are furnished in hospitals which participate in the Medicare program.

Under Section 1865(a) of the Act, the Secretary is authorized to accept hospital accreditations by the Joint Commission on Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA) as conclusive evidence of compliance with the requirements of 1861(e), if the standards used by JCAH or AOA meet the standards set by the Department.

On February 27, 1978, a final regulation was issued (43 FR 7984) which requires clinical laboratories located in Medicare hospitals to meet specific quality control and proficiency testing standards, and to participate in a proficiency testing program. At that time the standards used by JCAH and AOA did not meet the Department's standards in these areas. However, we stated in the preamble to this regulation that we would reevaluate the JCAH and AOA standards, and determine if they had been upgraded to meet the Department's standards.

Since publication of the regulation, JCAH has upgraded it's standards to meet those of the Department. AOA's standards, however, do not yet meet the Department's standards.

Therefore, Section 405.1028 (k) and (l) are amended to provide that only AOA accredited hospitals "are not deemed to meet" the Department's standards of clinical laboratory quality control and proficiency testing.

The effect of this regulation is to permit the Department to accept JCAH accreditation of hospital laboratories without requiring further surveys by State health departments. This eliminates unnecessary and expensive duplication of effort.

This regulation is being published as a final regulation, because no new requirements have been added to the regulation which was published on February 27, 1978.

The regulation published on February 27, 1978, became effective November 24, 1978. This amendment is also effective November 24, 1978, in order to avoid confusion or administrative complications regarding the validity of JCAH surveys.

42 CFR § 405.1028 is amended by revising paragraphs (k) and (l) to read as follows:

§ 405.1028 Condition of participation—Laboratories.

* * * * *

(k) *Standard; Proficiency Testing.* The laboratory meets the proficiency testing provisions of § 405.1314(a). The definition of "proficiency testing program", as stated in § 405.1310(c), is also applicable. Hospitals which are accredited by the American Osteopathic Association (AOA) are not deemed to meet the requirements of this paragraph.

"(l) *Standard; Quality Control.* The laboratory meets the quality control provisions of § 405.1317. Hospitals which are accredited by the American Osteopathic Association (AOA) are not deemed to meet the requirements of this paragraph.

(Sections 1102, 1861(e)(9), and 1871; 42 U.S.C. 1302, 1395x(e)(9), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.800 Medicare—Hospital Insurance.)

Dated: November 15, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 3, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1519 Filed 1-15-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-846]

SHIP STATIONS IN MARITIME SERVICES

Implementing a System of Temporary Authorizations

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Rule amendment to implement a more convenient ship station licensing procedure through the utilization of a system of temporary permits. Action being taken as part of Commission's general policy of de-regulation and simplification of its rules. New licensing procedure is expected to be less burdensome on the public and the Commission.

EFFECTIVE DATE: April 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Safety and Special Radio Services Bureau, (202-632-7197).

SUPPLEMENTARY INFORMATION:

Adopted: December 7, 1978.

Released: January 11, 1979.

By the Commission: Commissioner Brown absent.

Order. Amendment of Parts 1, 81 and 83 of the Commission's rules to implement a system of temporary authorizations for ship stations in the Maritime Services.

1. On April 13, 1976, the Commission released an Order (FCC 76-320) implementing a system of temporary authorizations in the Personal (Citizens Band) Radio Service. Similar action is now being taken to implement this type of licensing procedure in the Maritime Services.[1]

2. Previously, an individual who did not wish to wait the normal application processing time (4 to 6 weeks) to begin operating his ship station could follow the interim licensing procedure outlined in Section 83.35 of the Commission's rules. This procedure required the licensee or his agent to appear in person at an FCC Field Office. For many individuals, this requirement was burdensome in terms of time and travel. We feel that this new licensing procedure is more responsive to the needs of the public.

3. The procedure to be used in obtaining a temporary authorization is as follows:

a. The applicant must obtain FCC Form 506, *Application for Ship Radio Station License,* and FCC Form 506-A, *Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit.* (These will be available as a combined document and will replace FCC Forms 501, 502 and 552.) Persons not holding a commercial radio operator license or permit must also obtain FCC Form 753, *Application for Restricted Radiotelephone Operator Permit.* It is hoped that these forms will be widely available through boating organizations, yacht clubs, marinas, and marine electronics dealers. If unavailable elsewhere, these forms may be obtained from the Commission's headquarters, Federal Communications Commission, Room B-10, 1919 M Street, NW., Washington, D.C. 20554, and all Commission field offices.

b. The applicant must then execute an FCC Form 506, *Application for Ship Radio Station License,* and *an FCC Form 753, Application for Restricted Radiotelephone Operator Permit,* if he does not presently hold a commercial operator license or permit. These forms should be mailed to the Commission.

c. The applicant must read FCC Form 506-A, *Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit,* to determine whether he meets the requirements for holding a temporary permit. He must be able to certify that he is at least 14 years of age, that he is not a representative of a foreign government, that he has applied for a Regular Ship Radio Station License by mailing a properly completed FCC Form 506 to the Federal Communications Commission, Box 1040, Gettysburg, Pennsylvania 17325, that he holds a commercial radio operator license or permit or has applied for a Restricted Radiotelephone Operator Permit by mailing a properly completed FCC Form 753 to the Federal Communications Commission, Box 1050, Gettysburg, Pennsylvania 17325, that he has not been denied a license or had license revoked by the Commission, and that he is not subject to any other legal action concerning the operation of a radio station. The applicant must then determine, pursuant to instructions on the Form 506-A, the temporary call sign to be used in conjunction with this temporary permit and enter it in the appropriate place on the Form 506-A. The call sign will consist of the letters "WD" followed by the first four numerals[2] of the vessel's documented number or the letter "W" followed by the first two letters and first four numbers[2] of the vessel's Federal or State registration number (e.g., a vessel with a Maryland state registration number of MD 9848 U would be assigned the call sign WMD9848 and a vessel with the documentation number 234567 would be assigned a call of WD2345). We emphasize that this call sign is temporary and that a new call sign will be issued with the regular station license.

d. The applicant must then sign Form 506-A and indicate on this form the date of mailing his regular ship and operator applications (FCC Forms 506 and 753 or during the form's transition period FCC 501 or 502 and 753). After mailing these applications, the applicant may then operate his ship station under the temporary operating authority, subject to Part 83 of the FCC's rules, using his temporary call sign, for a period of 60 days. The temporary operating authority must be retained by the applicant as part of the station records.

4. This application procedure will apply to all ship stations and will be particularly beneficial to recreational boat operators. However, it should be noted that this procedure does not relieve the vessel of complying with any other requirements (e.g., higher class operator authorization, radio installation inspection) which may be applicable to the operation of the radio station.

5. In keeping with the Commission's policy of simplifying our rules and regulations, Subpart B and C of Part 83 have been editorially reorganized and rewritten into a single Subpart. Table 1 gives a comparison of the present and new rule sections. Additionally, the changes contained in the attached Appendix reflect the present title of FCC Form 503 and certain other editorial changes.

6. Authority for these amendments appear in Sections 4(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended. In that the amendments adopted herein are editorial and procedural in nature, the prior notice and public procedure provisions of the

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[1] The Commission, however, refused in 1975 to authorize self-issued, temporary permits for applicants for Restricted Radio Telephone Operator Licenses. (53 FCC2d 1001 (1975).) This decision was based on an interpretation of Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)), which allows the issuance of licenses only to citizens that "the Commission finds qualified." The Commission decided in this decision it could only determine whether a person were qualified after he or she submitted an application, and, therefore, rejected the use of self-issued, temporary permits. For the reasons indicated below, the Commission is not following its 1975 decision in the Maritime Service. It is legally proper for the Commission to modify or reverse a prior decision. (*Aspen Institute,* 55 FCC2d 697, 712 (1975), *aff'd sub nom., Chisholm* v. *F.C.C.,* 538 F.2d 349 (D.C. Cir. 1976), *cert, denial,* 429 U.S. 890 (1976).)

Section 303(l)(1) provided the FCC with very broad discretion (cf., *National Broadcasting Co., Inc.* v. *United States,* 319 U.S. 190, 217 219-20 (1943); *Federal Communications Commission* v. *Pottsville Broadcasting,* 309 U.S. 134, 139 (1940).) It only requires the Commission to determine the qualifications of potential licensees; the statute does not specify procedural or substantive standards to be applied in assessing qualifications. In effect, a person is qualified when the FCC decides he or she is eligible to receive a license. In the Maritime Service there are practical reasons for believing that a person can be qualified simply by completing an application form since licensing does not involve testing, the exclusion of other possible licensees, or the weighing of complicated public interest factors. The only real requirement is that a person certify that he or she understands the Commission's rules and can communicate in English. In the past, most applications have been routinely granted. Accordingly, anyone willing to make these certifications should be allowed to use a temporary license pending the processing of the application. The only time when this procedure should not apply is when the applicant has physical defects or a criminal record (conditions which relate to a person's ability to properly use a radio). If a person indicates that the above exists, he will be ineligible for a temporary permit, and the FCC's Field Operations Bureau will investigate the nature of the physical defect or criminal record to determine when the person should be licensed.

[2] In order that the temporary call sign conform with Article 19 of the Radio Regulations, if the first numeral of the documentation or registration number is a 0 or 1, the call sign will consist of the number 9 followed by the first three numbers of the documentation or registration number (e.g., a vessel with the documentation number 123456 would have the temporary call sign WD9123).

Administrative Procedure Act, 5 U.S.C. 553 are not applicable. Further, such notice and public procedure provisions are impracticable, unnecessary and contrary to the public interest since the public convenience requires the implementation of new temporary authorization regulations as soon as possible, and it is unlikely that significant changes would be proposed by comments from the public. In addition, because the subject amendments relieve a rule restriction by permitting ship station applicants to operate their radio stations prior to issuance of their regular station licenses, the effective date requirements of the Administrative Procedure Act are inapplicable and these amendments may, for good cause, become effective immediately.

7. *Accordingly, it is ordered,* That Parts 1, 81 and 83 of the Commission's rules are amended as set forth below effective April 1, 1979.

8. The reporting requirement included herein is adopted subject to General Accounting Office clearance and, unless advised to the contrary, will be effective April 1, 1979.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317))

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

TABLE 1

Old rule section:	*New rule section*
83.20	83.32
83.21	83.20
83.22	83.26
83.23	83.22
83.24	83.28, 83.32
83.25	83.30
83.26	Deleted (editorial)
83.27	83.36
83.28	83.34
83.29	Deleted (editorial)
83.30	Deleted (editorial)
83.31	83.56
83.32	83.28
83.33	83.42
83.34	83.46
83.35	Deleted (editorial)
83.36	83.28, 83.46
83.37	83.28
83.38	Deleted (editorial)
83.39	83.52
83.40	83.50
83.41	83.54
83.42	83.54
83.43	Deleted (editorial)
83.44	Deleted (editorial)
83.45	Deleted (editorial)
83.46	83.70
83.47	83.72
83.48	83.74
83.49	83.60
83.50	83.58
83.62	83.42
83.63	83.40
83.64	Deleted (editorial)
83.67	83.44
83.68	83.24
83.69	Deleted (editorial)
83.70	83.59
83.72	Deleted (editorial)
83.73	83.48
83.74	83.38
83.75	83.54
83.301	83.24

Parts 1, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. In § 1.913, paragraph (b) is amended to read as follows:

§ 1.913 Who may sign applications.

* * * * *

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or his absence from the United States, or by applicant's designated vessel master when a temporary permit is requested for that vessel. The attorney shall, when applicable, separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's or master's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

* * * * *

2. Section 1.922 is amended to read as follows:

§ 1.922 Forms to be used.

FCC form:	*Title*
*	* * * *
505	Application for Station License in the R/C or CB Service.
506	Application for Ship Radio Station License.
506-A	Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit.
525	Application for Disaster Communications Radio Station Construction Permit and License.
*	* * * *

3. In § 1.925, the Headnote is amended and a paragraph (f) is added as follows:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

* * * * *

(f) An applicant for a Ship Radio station license may operate his radio station pending issuance of his ship station authorization by the Commission for a period of 60 days, under a temporary operating authority, evidenced by a properly executed certification made on FCC Form 506-A.

4. In § 1.926, paragraph (b)(9) is amended to read as follows:

§ 1.926 Application for renewal of license.

* * * * *

(b) * * *

(9) Applications for renewal of ship radio station licenses shall be submitted on FCC Form 405-B.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS.

Section 81.33 is amended to read as follows:

§ 81.33 Application concerning marine-utility stations.

Applications for marine-utility stations shall include a showing that the applicant meets the supplemental eligibility requirements contained in § 81.351. Marine-utility stations aboard vessels are to be operated as ship stations and are subject to the provisions of Part 83 of this chapter. Marine utility stations operated on land are subject to the rules contained in this part.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.2, paragraph (i) is amended to read as follows:

§ 83.2 General.

* * * * *

(i) *Ship radio station license.* A license authorizing the operation of stations governed by this part aboard a vessel.

* * * * *

2. In § 83.3, a new paragraph (r) is added to read as follows:

§ 83.3 Maritime Mobile Service.

* * * * *

(r) *Associated portable ship unit.* A portable VHF transmitter for use in the vicinity of the ship station with which it is associated.

3. Delete Subparts B and C, and insert new Subpart B, including the heading, to read as follows:

Subpart B—Applications and Licenses

Sec.
83.20 Station authorization required.

Sec.

83.22 General citizenship requirements.
83.24 Eligibility for station license.
83.26 Administrative classification of stations.
83.28 Standard forms to be used.
83.30 Who may sign applications.
83.32 Filing of applications.
83.34 Amendment or dismissal of application.
83.36 Defective applications.
83.38 Assignment of call signs.
83.40 License term.
83.42 Changes during license term.
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83.70 Application for inspection and certification.
83.72 Temporary waiver of annual inspection.
83.74 Compensation for overtime services.

AUTHORITY: Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317).

Subpart B—Applications and Licenses

§ 83.20 Station authorization required.

(a) No station shall be operated in the Maritime Services except under and in accordance with an authorization granted by the Federal Communications Commission.

(b) Normally, only one station authorization will be granted to operate all transmitting equipment on board a vessel.

§ 83.22 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative of a foreign government.

§ 83.24 Eligibility for station license.

(a) Except as provided in § 83.50(b), a ship station may ONLY be granted to:

(1) The owner or operator of the vessel;

(2) A subsidiary communications corporation of the owner or operator of the vessel;

(3) A state or local government subdivision; or,

(4) Any agency of the Federal Government subject to Section 301 of the Communications Act.

(b) Authority to operate an EPIRB will be granted only for use aboard the following types of vessels:

(1) Vessels authorized to carry survival craft;

(2) Vessels expected to travel in waters beyond the range of marine VHF distress coverage (generally considered to be more than 20 miles offshore);

(3) Vessels required to be fitted with EPIRBs to comply with U.S. Coast Guard regulations.

§ 83.26 Administrative classification of stations.

(a) Stations in the maritime mobile service subject to this part are licensed according to the class of station normally as designated below:

(1) Ship radiotelephone stations.
(2) Ship radiotelegraph stations.
(3) Survival craft stations.
(4) On-board stations.

(b) Stations in the maritime radiodetermination service subject to this part are:

(1) Ship radiolocation stations.
(2) Ship radiolocation test stations.
(3) Ship radionavigation stations.
(4) Ship radar stations.
(5) Emergency position indicating radiobeacon (EPIRB) stations.

(c) Stations in the maritime mobile-satellite service subject to this part are:

(1) Ship earth stations.

§ 83.28 Standard forms to be used.

To assure that necessary information is supplied in a consistent manner, the following standard forms shall be used as applicable. These forms may be obtained without cost from the Commission at Washington, D.C. 20554, or any FCC Field Office.

(a) Forms to be used when applying for station authorization governed by this part:

(1) *FCC Form 506, Application for Ship Radio Station License.* This form shall be used when applying for a new or modified ship station license.

(2) *FCC Form 506-A, Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit.* This form shall be used when application is made for temporary operating authorization.

(3) *FCC Form 703, Application for Consent to Transfer Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made to transfer control of a corporation holding any station authorization.

(4) *FCC Form 405-B, Renewal Application Short Form.* This form shall be used for renewal of ship station licenses.

(b) Forms to be used when applying for exemption or inspection;

(1) *FCC Form 801, Application for Ship Radio Inspection.* This form shall be used when applying for inspection of radio installation required by Title III, Part II of the Communications Act or the Safety of Life at Sea Convention.

(2) *FCC Form 809, Application for Periodic Survey, Great Lakes Agreement.* This form shall be used when applying for survey of radiotelephone installation required by Great Lakes Agreement.

(3) *FCC Form 812, Application for Periodic Inspection (Communications Act, Title III, Part III).* This form shall be used to request inspection of radiotelephone installation required by Title III, Part III of the Communications Act.

(4) *FCC Form 820, Application for Exemption from Ship Radio Requirements.* This form shall be used to request exemption from any required ship radio installation.

NOTES.—FCC Forms 506 and 506-A are available as a combined document.

§ 83.30 Who may sign applications.

(a) Except as provided in paragraphs (b) and (c) of this section, the signature on an application must be made as follows:

Type of applicant	Signature of applicant
Individual	Individual must personally sign.
Partnership	One of the partners.
Corporation	Officer or duly authorized employee.
Association	Member who is an officer.
Government Unit	Appropriate elected or appointed official.

(b) In the case of an applicant's physical disability or his absence from the United States, an application may be signed by the applicant's attorney in accordance with § 1.913(b) of the Commission's rules.

(c) An application for a ship radio station license may be signed by the applicant's designated vessel master when temporary operating authority is requested for that vessel.

§ 83.32 Filing of applications.

(a) Each application shall be filed at least 60 days before the date on which it is desired that the requested authorization be granted.

(b) Each application shall specify an address in the United States to be used by the Commission in serving documents or directing correspondence to the licensee. Unless advised to the contrary, the address contained in the licensee's most recent application will be used for this purpose.

(c) Each application shall be filed in original only.

(d) Each application shall be filed with the Federal Communications

Commission, Washington, D.C. 20554, unless otherwise noted on the application form.

(e) An application by a U.S. citizen, national, or resident alien for a new station on a vessel not located in United States navigational waters shall include (1) a statement that the vessel is not documented or otherwise registered by any foreign authorities, and (2) a statement that the foreign authorities where the vessel is located, will not or cannot license the vessel radio equipment, or that they do not object to the licensing of the equipment by the United States.

§ 83.34 Amendment or dismissal of application.

An application may be amended or dismissed without prejudice upon request by the applicant before the application is granted or designated for hearing. Each request for amendment or dismissal of an application shall be signed and submitted in the same manner as required for the original application.

§ 83.36 Defective applications.

(a) An application which is not made in accordance with the Commission's rules or other requirements will be considered defective unless accompanied by a request to waive or amend the rule or other requirement with which the application is in conflict. The reasons which are believed to support such a request shall be stated in detail.

(b) If an applicant is requested by the Commission to file any document or information in connection with his application, a failure to comply with the request will constitute a defect in the application.

(c) When an application is considered to be incomplete or defective, the application will be returned to the applicant. The reason for the return of the application will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 83.38 Assignment of call signs.

Ship Stations in the maritime mobile service are assigned call signs in accordance with § 2.302.302 of this chapter, as follows: (a) Ship stations using radiotelegraphy and ship stations authorized to carry survival craft are assigned call signs consisting of four letter combinations beginning with the letters "K" or "W". (Examples: KBCD or WBCD).

(b) Other ship stations are assigned call signs consisting of either two letter, four digit combinations or three letter, four digit combinations beginning with the letter "W".

NOTE.—The digits 0 or 1 may not immediately follow a letter.

(c) Ship stations operating under temporary operating authority shall have call signs consisting of the letters "WD" followed by the first four numerals [1] of the vessel's documented number or the letter "W" followed by the first two letters and first four numbers [1] of the vessel's Federal or State registration number.

§ 83.40 License term.

(a) Licenses for stations in the Maritime Services are normally issued for 5 years.

(b) Authorization for stations engaged in developmental operation will be made upon a temporary basis for a specific period of time, not to exceed one year.

(c) An applicant for a ship radio station license may operate his radio station pending issuance of his ship station authorization by the Commission for a period of 60 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 506–A.

§ 83.42 Changes during license term.

(a) The following table indicates the requirements for changes made during the license term:

Type of change	Required action
Mailing address	Written notice to the Commission
Name of licensee (without changes in ownership, control, or corporate structure).	Written notice to the Commission
Control of a corporation	Application for a new license
Name of the vessel	Written notice to the Commission
Addition of transmitting equipment which operates in a frequency band not authorized on present license.	Application for modification of license
Addition or replacement of transmitting equipment in a frequency band authorized on present license.	None (Provided the equipment is properly type accepted)

(b) Written notices should be sent to the Federal Communications Commission, Gettysburg, Pennsylvania 17325, or to Secretary, Federal Communications Commission, Washington, D.C. 20554, depending on where the original license application was filed.

§ 83.44 Transfer of license prohibited.

A ship station license may not be transferred or assigned. In lieu of transfer or assignment, an application for a new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

§ 83.46 Renewal of license.

(a) All applications for renewal must be made during the license term and should be filed within 90 days but not later than 30 days before the end of the license term. When timely and sufficient application for renewal is made, the licensee may continue to operate his station until the Commission acts on the application.

(b) Application for renewal of licenses shall be submitted on FCC Form 405-B.

§ 83.48 Discontinuance of operation.

The Commission shall be notified by the station licensee upon the permanent discontinuance of his station.

SPECIAL AUTHORIZATION

§ 83.50 Application for a portable ship station.

(a) The Commission may grant a license permitting operation of a portable ship station in the maritime services for use as the occasion required aboard different vessels of the United States. Each application for a portable ship station shall include a showing that:

(1) The station will be operated as an established class of station on board ship in conformity with all applicable Commission's rules, and

(2) Circumstances exist whereby a station license for portable equipment is necessary to eliminate frequent applications to operate a ship station on board different vessels.

(b) A portable ship station may also be granted when the station will be used solely for testing marine radio equipment incident to its manufacture, installation or servicing. The eligibility requirements of § 83.24 shall not apply in this instance.

§ 83.52 Application for plurality ship station license.

(a) An applicant, in applying for licenses to cover similar radiotelephone stations on board two or more vessels, may specify on a single FCC Form 506

[1] In order that the temporary call sign conform with Article 19 of the Radio Regulations, if the first numeral of the documentation or registration number is a 0 or 1, the call sign will consist of the number 9 followed by the first three numbers of the documentation or registration number (e.g., a vessel with the documentation number 123456 would have the temporary call sign WD9123).

the total number of vessels in his fleet. Under these circumstances a plurality ship station license may be issued for operation of all radio stations aboard the vessels in the fleet.

(b) The plurality ship station license is issued on the following conditions:

(1) The licensee shall keep a current list of vessel names and registration numbers authorized by the plurality license;

(2) The vessels do not engage in voyages to any foreign country;

(3) The vessels are not subject to the radio requirements of (Parts II or III of Title III) of the Communications Act or the Safety of Life at Sea Convention.

§ 83.54 Application for special temporary authority.

(a) Applications for special temporary authority may be filed either formally by submission of an appropriate application form or informally by letter or telegram to operate new facilities, or to operate existing facilities beyond that authorized in the current authorization. The nature of the emergency, equipment failure or other circumstances which, in the opinion of the applicant justifies issuance of a special temporary authorization, must be fully described in the request.

§ 83.56 Application for marine utility station.

Applications for marine utility stations shall be filed in accordance with Part 81 of the rules. Marine utility stations aboard vessels are to be operated as ship stations and are subject to the rules of this part. Marine utility stations operated on land are subject to Part 81 of this Chapter.

§ 83.58 Applications for exceptional authority to communicate with amateur stations.

Upon proper application, including a supplemental statement as herein prescribed, the Commission may grant a license, modification of license, renewal license, or special temporary authorization, permitting a ship telegraph station on board a vessel not engaged in commerce or a vessel used, or intended to be used, for scientific research or expedition, to transmit by means of class A1 or A2 emission on authorized ship telegraph frequencies within the band 2000 kHz to 25,000 kHz, for the purpose of exchanging radiotelegraph communications directly with licensed amateur stations on land in accordance with the provisions of § 83.59: *Provided*, The applicant includes a supplemental statement satisfactorily showing that:

(a) Unusual circumstances during the contemplated voyage(s) are anticipated which will make direct communication with amateur stations extremely beneficial to persons on board the vessel or to the person(s) responsible for the scientific research or expedition for which the vessel is used or is intended to be used;

(b) The messages to be exchanged with amateur stations will contain no material relating directly or indirectly to a commercial transaction; and

(c) Transmission for this purpose will be conducted on a secondary basis so as to avoid interference to commercial message traffic and other authorized emissions of stations operating in the maritime radiolocation service.

§ 83.59 Authority to communicate with amateur stations.

(a) A ship station shall not communciate with or transmit to any amateur station unless it is specifically authorized by the Commission to do so. When authorized to communciate with duly licensed amateur stations, a ship station shall conduct all operation for this purpose in conformity with the relevant terms of its station license and, except as otherwise permitted by the station license, shall for this purpose,

(1) Transmit by means of A1 or A2 emission only on a frequency between 2000 kHz and 25,000 kHz authorized for such emission;

(2) Not cause harmful interference to stations in the maritime mobile service nor to stations in the radiolocation service;

(3) Not engage in any communications relating directly or indirectly to a commercial transaction.

(b) Communication with amateur stations of foreign countries shall be limited to communications with such amateur stations as are authorized to communicate with the ship station concerned; in addition, the nature of the communications exchanged with foreign amateur stations shall, in addition to the requirements of paragraph (a) of this section, be in accordance with the international Radio Regulations and in conformity with the regulations of the foreign administration(s) having jurisdiction over the amateur station(s) involved.

§ 83.60 Application for exemption.

(a) Application for exemption from the radio provisions of Part II or III of Title III of the Communications Act of 1934, as amended, the Safety of Life at Sea Convention, 1960 or the Great Lakes Radio Agreement, or for modification or renewal of exemption previously granted shall be submitted by the vessel owner, the vessel's operating agency, or the master of the vessel to the Secretary, Federal Communications Commission, Washington, D.C. 20554, on FCC Form 820. In cases of emergency, the Commission may consider an informal application which should include the full information normally furnished on the formal application.

(b) When an exemption from the Safety Convention is granted by the Commission to a cargo ship, the Commission issues an Exemption Certificate to the vessel. When an exemption from the Safety Convention is granted by the Commission to a passenger ship, the Commission certifies the necessary particulars to the United States Coast Guard, requesting that agency to issue an Exemption Certificate to the vessel.

(c) This Commission does not have statutory authority to issue exemptions from the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act. Applications for exemption from the Vessel Bridge-to-Bridge Radiotelephone Act should be forwarded directly to the Commandant, U.S. Coast Guard, Washington, D.C. 20591.

INSPECTIONS

§ 83.70 Application for inspection and certification.

(a) Ship radio installations required by law for safety purposes are subject to inspection and certification by the Commission. Application for inspection and certification shall be submitted to the Engineer in Charge of the FCC Field Office nearest the desired place of inspection. The application shall be filed by the vessel owner, the vessel's operating agency, the ship station licensee, or the master of the vessel at least 3 days before the desired inspection date.

(b) *FCC Form 801* shall be used to apply for annual inspection of radio stations on board ships subject to Part II of Title III of the Communications Act, or the Safety of Life at Sea Convention. A qualified radio operator and (unless otherwise notified by the Commission) sufficient personnel to lower and raise antennas and to launch any required radio equipped survival craft shall be available on the ship at the time of the inspection.

(c) *FCC Form 809* shall be used to apply for annual survey of radio stations on board ships subject to the Great Lakes Agreement.

(d) *FCC Form 812* shall be used to apply for biennial inspection of radio stations on board vessels which are subject to Part III of Title III of the Communications Act.

(e) The FCC Forms specified in paragraphs (b), (c), and (d) of this section shall be used to apply for inspections of bridge-to-bridge radio stations on board vessels which are subject to the Vessel Bridge-to-Bridge Radiotelephone Act when they are additionally subject, respectively, to (1) either or both the Safety Convention and Part II of Title III of the Communications Act, or (2) to the Great Lakes Radio

Agreement, or (3) to Part III of Title III of the Communications Act.

(f) The FCC Forms specified in paragraphs (b) and (d) of this section shall be used to apply for inspection of EPIRB stations on board vessels which are required to be mandatorily fitted by U.S. Coast Guard regulations (Chapter I of Title 46 of the Code of Federal Regulations) when they are additionally subject to (1) either or both the Safety Convention and Part II of Title III of the Communications Act, or (2) to Part III or Title III of the Communications Act.

§ 83.72 Temporary waiver of annual inspection.

(a) The Commission may grant a waiver of the annual inspection for a period not to exceed 30 days from the time of first arrival of a ship at a United States port directly from a foreign port for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be made. An informal application (such as a letter or telegram, or phone call to be confirmed by letter) for waiver of inspection shall be submitted by either the vessel owner, the vessel's operating agency, the ship station licensee, or the master of the vessel. The application shall be submitted not earlier than 3 days in advance of the vessel's arrival at a United States port. The application shall be submitted to the Commission's Engineer in Charge of the radio district office nearest the port of arrival. The application shall include:

(1) The ship's name and radio call sign;

(2) The name of the first United States port of arrival directly from a foreign port;

(3) The date of arrival;

(4) The date and port at which annual inspection will be formally requested to be conducted;

(5) Reason for requesting waiver; and

(6) An affirmation that the ship's required radio equipment is in effective operating condition.

(b) This waiver may also be granted by the Engineer in Charge on his own motion in the following cases:

(1) The duration of the vessel's scheduled stay in port is too short to permit completion of annual inspection during normal working hours;

(2) The distance to the vessel would not permit completion of annual inspection, including travel time, during normal working hours;

(3) Commission inspection personnel are not available to conduct the annual inspection during normal working hours;

(4) Annual inspection in the port could probably not be completed inasmuch as during normal working hours the vessel is scheduled to load or discharge inflammable or unstable cargo or the exigencies of cargo handling renders required antennas unavailable; or

(5) Replacement of the required radio equipment or a major component thereof is scheduled to be made at the alternate port proposed for the annual inspection.

§ 83.74 Compensation for overtime services.

(a) Under Section 4(f)(3) of the Communications Act, Engineers in Charge and Radio Engineers of the Field Engineering Bureau of the Federal Communications Commission, who may be required to remain on duty to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of Part II of Title III of the act, or the Great Lakes Agreement at night or on Sundays and holidays, shall receive extra compensation to be paid by the master, owner, or agent of the vessel under the following regulations:

(1) The rates of extra compensation are payable in cases where the services of such engineers have been duly requested and they have reported for duty, even though no actual service may be performed.

(2) The extra compensation for overtime services is in addition to the regular compensation paid by the government in the cases of engineers whose compensation is fixed on the ordinary per diem basis and those receiving compensation per month or per annum.

(3) Extra compensation for "waiting time" will not be allowed unless and until the engineer actually reports for duty.

(4) For the purpose of computing extra compensation, the word "night" shall mean the time between the established closing hour of one day at the office involved and the established opening hour of the following business day at such office, but shall not include any such time within the 24 hours of a Sunday or holiday. Each Sunday and each holiday shall comprise the 24 hours between midnight and midnight. For the purposes of this section the time between the established closing hour of an office and midnight of the day immediately preceding a Sunday or holiday and the time from midnight until the established opening hour of the day immediately following the said Sunday or holiday will be considered as a single night. The term "holiday" shall include only government recognized holidays, and such other days as may be designated national holidays by the President or Congress.

(5) For authorized service in excess of 8 hours on any day excluding Sunday and holidays, extra compensation equivalent to one-half days pay is payable for each 2 hours or fraction thereof of at least 1 hour that the overtime extends beyond the said 8 hours: *Provided*, That the overtime is not less than 1 hour. The maximum amount which may be paid for such authorized overtime services on any day other than on a Sunday or holiday shall not exceed 2½ days pay.

(6) In computing the amount earned for overtime at the rate of "one-half days pay for each 2 hours or fraction thereof of at least 1 hour that the overtime extends beyond the established closing hour", one-half days pay shall be one-half of the gross daily rate of pay; each 2 hours is the time period for the purpose of computation; at least 1 hour means the minimum service in any such 2-hour overtime period for which extra pay may be granted, and each additional period in the amount of 2 hours or fraction thereof of at least 1 hour will entitle the engineer to an additional one-half days pay. Payment of extra compensation for services consisting of at least 1 hour is authorized from the established closing hour, even though such services may not actually begin until later, provided that the engineer rendering the service remained on duty after the established closing hour, in which case the time between the established closing hour, and the time of beginning the actual services shall be computed as waiting time. Where the performance of actual service is preceded by such a waiting time there should be an affirmative statement that the engineer was required to remain on duty between the established closing hour and the time of beginning the actual services.

(7) In computing extra compensation where the services rendered are in broken periods, the time served should be combined with the waiting time and computed as continuous service.

(8) The same considerations shall apply when charging for waiting time as govern the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least 1 hour.

(9) For any authorized services performed on Sundays and holidays, totalling not more than 8 hours, extra compensation is payable equivalent to two days pay in addition to any regular compensation for such days. For any authorized service in excess of 8 hours (starting either before or after 5 p.m. local time) extra compensation at the rate of one-half day's pay, based on the normal daily rate of pay, for each two hours of service or fraction thereof of not less than 1 hour, is pay-

able in addition to the extra compensation payable for service up to and including 8 hours of service. The maximum extra compensation payable for work on Sundays and holidays is 4½ days pay.

(10) When engineers are in travel status overtime shall apply the same as if they were at an official station. However, compensation for such overtime shall not include travel time.

(11) Assessments and collection of fees against steamship companies for overtime services shall be made even though the payment to employees for such services may not be made until funds are appropriated for that purpose.

(12) An application on a form prescribed by the Commission shall be filed with the office being requested to furnish overtime services before such assignment can be made.

(13) Overtime services shall be billed to the steamship companies as soon as possible after the services have been performed and on collection voucher provided for that purpose. Remittance shall be by postal money order or certified check payable to the "Collector of Customs, Treasury Department" and forwarded to that officer at the port indicated on the voucher, who shall in turn deposit such remittance on a properly designated receipt account.

(14) Protests against the extraction of extra compensation shall be forwarded to the Commission at Washington, D.C., and a copy thereof sent to the office which furnished the overtime services.

* * * * *

Subpart C—[Reserved]

4. Subpart C is deleted in its entirety and designated [Reserved].

5. Section 83.186 is amended to read as follows:

§ 83.186 Operational conditions on use of associated portable ship units.

Associated portable ship units may be operated under a ship station authorization. Use of an associated portable ship unit is restricted as follows:

* * * * *

§ 83.301 [Deleted]

6. Section 83.301 is deleted and designated [Reserved].

7. In § 83.364, paragraph (c) is amended to read as follows:

§ 83.364 Identification of station.

* * * * *

(c) When an official call sign is not assigned by the Commission to a ship station using telephony, the complete name of the ship on which the station is located and the name of the licensee or the temporary call sign provided in § 83.38 shall be transmitted by voice in the English language for the purpose of station identification.

* * * * *

[FR Doc. 79-1508 Filed 1-15-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. MC-C-3437]

PART 1041—INTERPRETATION—CERTIFICATES AND PERMITS

PART 1047—EXEMPTIONS

PART 1082—EXEMPTIONS

Motor Transportation of Property Incidental to Transportation by Aircraft

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this proceeding expand air terminal areas to a zone extending 35 miles from the boundary of the pertinent airport, as well as a zone extending 35 miles from the corporate limits of any municipality any part of whose commercial zone falls within 35 miles of that airport. The new rules encompass areas which better reflect current economic conditions surrounding airports.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg (telephone: 202/275-7292).

SUPPLEMENTARY INFORMATION: This is the culmination of a three-part proceeding which was instituted by notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26667). After reviewing public comment on the proposed regulations, the Commission decided that a more comprehensive understanding of the issues in this proceeding, was needed, and the Commission's Bureau of Economics was directed to prepare a report on the economic issues involved. The Bureau's report was issued on July 30, 1978, and the public was afforded an opportunity to comment on it. The report and the comments have been incorporated into the record in this proceeding.

In a separate Decision, we have set forth (1) the history of this proceeding, (2) background information concerning the development of the incidental-to-air exemption, (3) a discussion of all relevant issues, and (4) conclusions as to the appropriate form the final regulations should take. Certain minor incidental amendments to related regulations are also made in the interest of consistency. Those persons seeking more specific information as to any particular aspect of this proceeding should examine the Commission's Decision, copies of which can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

The rule changes specified below are made under the authority of sections 10321 of the Interstate Commerce Act (49 U.S.C. 10321) and sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559).

Issued at Washington, D.C., on December 11, 1978.

By the Commission. Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Stafford dissenting.

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD, DISSENTING

The majority decision effectively deregulates the transportation of air freight. In my view, this action is not only against the public interest, but it constitutes a step which this Commission has no legal authority to take. The Interstate Commerce Act exempts the motor vehicle movement of persons or property "when *incidental* to transportation by aircraft." Today's action ignores that statutory mandate. The majority decision will create motor carrier service directly competitive with, and not incidental to, the air service now being provided between presently certificated airline points. This does not properly reflect the Congressional intent of the exemption.

I do not advocate that the Commission ignore the urban growth which has taken place during the past two decades. On the other hand, today's "35-35" decision is a significant increase in the size of the exempt zone. In my view, it is close to the original 100 mile proposal, and the use of the figure 35 should not mask today's decision as something in line with the conclusion of the Bureau of Economics. In fact, I have some doubt about the fairness of promulgating today's decision as a final rule. It is a novel approach and is being adopted without further comment.

As for the public interest factor, I believe the presently regulated carriers who specialize in the ground transportation of air freight perform an important function. Often they provide a local service involving small shippers. In this vein, I think it important to have a network of regulated carriers, with a duty to serve the public generally, rather than to pick and choose the better

traffic. Moreover, these shippers receive added protection from the tariff filings which must contain any rules pertaining to the handling of this traffic. Likewise, the regulated carrier must maintain adequate insurance coverage, must dispose of claims fairly, and must indicate compliance with appropriate safety regulations. Today's deregulation measure eliminates these common carrier obligations in favor of free entry by carriers who have no obligation to serve anyone and who are free to charge whatever the traffic will bear.

Finally, certain additional considerations deserve mention. I am troubled by the unrepresentative sample used by the Bureau of Economics to support its conclusions. The report spends considerable time identifying where industry has located its manufacturing and processing facilities. However, the study is restricted to only six of the 277 Standard Metropolitan Statistical Areas in the nation. Although the Bureau's proposal is more narrow than that adopted here today, there is no attempt to find that these six areas are representative.

Lastly, I find the summary treatment of environmental considerations to be or questionable compliance with the NEPA rules. If the deregulation of a part of the motor carrier industry does not have a significant environmental impact, then I doubt there is any substantive meaning behind the mandate that we consider this issue.

Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth below:

§ 1041.22 [Amended]

(1) In both subsections 1041.22(a) and 1041.22(b) delete the language "(direct or indirect)";

(2) Delete § 1047.40 in its entirety, and replace it with the following:

§ 1047.40 Motor transportation of property incidental to transportation by aircraft.

(a) General rule. Motor transportation of property incidental to transportation by aircraft is partially exempted from regulation by the Interstate Commerce Commission by section 10526(a)(8) of the Interstate Commerce Act. To qualify for the exemption, the transportation:

(1) must be of shipments which have been received from or will be delivered to an air carrier as part of a continuous movement;

(2) must be performed on a through air bill of lading covering, in addition to line-haul movement by air, the collection, delivery, or transfer service performed by the motor carrier;

(3) must be only of shipments in bona fide collection, delivery, or transfer service; and

(4) must take place within a zone (the "air terminal zone") extending 35 miles from the boundary of the airport at which the shipments are received or delivered.

(b) Exceptions. (1) If any part of the commercial zone of a municipality overlaps the air terminal zone, the area within 35 miles of the municipality's corporate limits is also included in the air terminal zone.

(2) The Commission may, on its own motion or in response to a petition filed by any person, establish a different air terminal zone for a particular airport.

(3) In emergency situations, where air carriers substitute motor transportation for air transportation due to adverse weather conditions, equipment failure, or other causes beyond the air carrier's control, the substituted service will qualify as incidental to transportation by aircraft if it is performed at the expense of an air carrier on a through air bill of lading.

(3) Delete § 1082.1 in its entirety, and replace it with the following:

§ 1082.1 Use by air freight forwarders of regulated motor common carrier service.

An air freight forwarder that receives or tenders shipments which have a prior or subsequent movement by air and which are transported beyond the air terminal zone (see 49 CFR 1047.40) will not be considered a freight forwarder subject to the Interstate Commerce Act unless:

(a) it holds out to assume responsibility for, or make any claim in its advertising, solicitation of freight, or tariff publications that it will assume responsibility for, any shipment transported by motor common carrier beyond the air terminal zone; or

(b) its shipping documents fail to state clearly that its responsibility for the shipment does not extend beyond the actual air movement and the territorial extent of the air terminal zone; or

(c) it receives compensation from any shipper or motor carrier for services rendered in connection with the receipt of shipments from or the delivery of shipments to a motor carrier for movement beyond the air terminal zone.

[FR Doc. 79-1517 Filed 1-15-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 260—INSPECTION AND CERTIFICATION

Fees and Charges

AGENCY: National Marine Fisheries Service, U.S. Department of Commerce.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to increase the hourly rate for inspection fees.

On October 8, 1978, the President, by Executive Order 12082 (42 FR 52365), increased the rates of basic pay of General Schedule employees. Section 260.81(a) requires that the hourly rates for inspection fees be automatically increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. This pay increase resulted in a 5.5 percent increase in the basic pay of fishery product inspectors.

DATE: These amended rates became effective October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Irving D. Sackett, Jr., Director of Inspection Services, Seafood Quality and Inspection Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7458.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (35 FR 15627), § 260.70 of Part 260, Inspection and Certification is hereby amended by adjusting the rates for fees and charges to provide for the recovery of increased costs attributable to the upward adjustment of the rates of basic pay of fishery product inspectors.

In § 260.70, paragraphs (b)(1), and (2), and (3) are revised as follows:

* * * * *

(b) * * *

(1) Type I—Official establishment and product inspection—contract basis:

	Per hour
Regular time	$17.95
Overtime	24.20
Sunday and legal holidays (2 hr. minimum)	29.45

The contracting party shall be charged at an hourly rate of $17.95 per hour for regular time; $24.20 per hour for overtime in excess of 8 hours per shift per day; and $29.45 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. At an official establishment designated in a contract, products also designated therein will be inspected during processing at

the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this section.

(2) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular time	$26.95
Overtime	35.45
Sunday and legal holidays (2 hr. minimum)	45.30
Minimum fee	20.25

For lot inspection services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, $26.95 per hour;

For lot inspection services performed at times Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum) $45.30 per hour. Sunday and national legal holidays (2 hr. minimum) $45.30 per hour. The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $20.25.

(3) Type III—Miscellaneous inspection and consultative services. When any inspection or related service, such as but not limited to, initial and final establishment surveys, appeal inspections, sanitation evaluation, SIFE inspections, sampling product evaluation, and label and product specification review, rendered is such that charges based on the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$22.50
Overtime	28.90
Sunday and legal holidays (2 hr. minimum)	36.85
Minimum fee	16.95

For miscellaneous inspection and consultative services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$22.50; for miscellaneous inspection and consultative services performed at times Monday through Friday other than 7:00 a.m., to 5:00 p.m. and on Saturdays (2 hr. minimum)—$28.90 per hour:

For miscellaneous inspection and consultative services performed on Sunday and national holidays (2 hr. minimum)—$36.85 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $16.95.

* * * * *

Dated: January 11, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1488 Filed 1-15-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1505-01-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 522]

STATUS OF INJECTABLE ANIMAL DRUGS

Intent Regarding Sterility and Pyrogenicity of Injectable Animal Drugs

Correction

In FR Doc. 78-34697, appearing at page 58591, in the issue for Friday, December 15, 1978, make the following change:

On page 58592, second column, designated paragraph 1, fifth line, insert the word "or" in between "species" and "for".

[4410-01-M]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Parole, Release, Supervision and Recommitment

AGENCY: United States Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would require that whenever, prior to the actual release of a prisoner, the Commission rescinds or retards a previously granted parole date on the basis of a disciplinary violation, the decision as to how long the prisoner should remain in confinement thereafter must be made pursuant to guidelines as set forth in the rule. These guidelines establish a policy that most cases of misconduct will result in a retardation of the release date by no more than 60 days. Rescission of parole will be indicated only for the most serious cases (e.g. multiple or aggravated misconduct or criminal violations). In addition, the Commission's procedural rules for reopening and rescinding parole dates are consolidated and clarified by a number of supplemental amendments.

DATES: Comments must be received by April 1, 1979.

ADDRESSES: Send comments to United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537, Attention: Office of the General Counsel.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, Telephone (202) 724-1991.

SUPPLEMENTARY INFORMATION: The text of these proposed rule revisions may be found in Part VI of this issue of the Federal Register, where they are published as interim rules to cover the March 1979 dockets. Comment is invited from prisoners, institution staff, and interested members of the public, both on the proposed guidelines as well as the procedural aspects of their application.

Dated: January 10, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1347 Filed 1-15-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 963-2A]

REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Emission Offset Interpretative Ruling

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Elsewhere in today's FEDERAL REGISTER, EPA is publishing changes to its Interpretative Ruling of December 21, 1976 (41 FR 55524), which describes the requirements for preconstruction review which apply to large new (or modified) air pollution sources affecting areas with air quality worse than the levels set to protect the public health and welfare. The Agency is soliciting additional public comment on certain issues relating to the Interpretative Ruling. These issues are discussed in detail in today's changes to the Ruling and are summarized below for the convenience of those wishing to provide comments on the unresolved issues.

DATES: Comments on items 7, 8, and 9 listed below must be received on or before February 15, 1979. Comments on items 1-6 below must be received on or before March 19, 1979.

ADDRESS: Comments should be submitted to: Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 11, Research Triangle Park, North Carolina 27711, Attention: D. Kent Berry.

All public comments received will be available for inspection and copying during normal business hours at: Public Information Reference Unit, Environmental Protection Agency, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

D. Kent Berry, Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 11, Research Triangle Park, North Carolina 27711, Telephone: 919-541-5341.

SUPPLEMENTARY INFORMATION: As discussed in detail elsewhere in today's FEDERAL REGISTER, the issues on which EPA is soliciting further public comments are as follows (the appropriate sections of the Ruling are shown in parentheses):

1. Geographic applicability of the Ruling to major sources of volatile organic compounds (Section II.C.) and the area where offsets may be obtained for VOC sources (Section IV.D.).

2. Criteria for determining whether an entity is controlled by, or under common control with, the applicant (Section IV.A., Condition 2).

3. How "banking" should be implemented (Section IV.C.5.).

4. How fugitive dust associated with major sources should be dealt with under the Ruling (Section II.F.).

5. EPA's interpretation that technology transfer may be used, where appropriate, in determining the lowest achievable emission rate for a source (Section II.A.7.).

6. EPA's policy that the Ruling does not allow offset credit for tightening SIP requirements down to Federal new source performance standards or national emission standards for hazardous air pollutant levels (see preamble discussion on "Baseline").

EXPEDITED COMMENTS

As noted in the preamble to the revised Interpretative Ruling, a major industrial group has requested an opportunity to comment on certain issues which have already been subject to public comment. Because these issues also relate to requirements in revised SIP's due January 1, 1979, an expedited comment period is provided on the following issues:

7. The definition of "potential" to emit (Section II.A.3.) and the selection of the cut-off points for determining the applicability of the offset requirements (Section II.C.).

8. The definition of source (Section II.A.1.).

9. The definition of modification (Section II.A.1.), including the additional flexibility under revised SIPs discussed in the preamble under "Applicability to modifications accompanied by emission reductions with the same source (intrasource offsets)."

Comments on these issues are due on or before February 15, 1979.

(Section 129(a), Pub. L. 95-95, (note under 42 U.S.C. § 7502), and Section 301 of the Clean Air Act, as amended (42 U.S.C. § 7601).)

Dated: December 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 79-1422 Filed 1-15-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Gen. Docket No. 78-316]

FEE REFUNDS AND FUTURE FCC FEES

Order Extending Time for Filing Comments in Parts C and D of This Proceeding

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Date for filing comments in response to Parts C and D of the Notice of Inquiry on Fee Refunds and Future FCC Fees is extended from January 8, 1979, to February 1, 1979. This action is taken in response to petitions from the General Electric Company, National Association of Broadcasters and the Land Mobile Communications Council.

DATES: Comments on Parts C and D must be filed by February 1, 1979.

ADDRESSES: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Webbink, Office of Plans and Policy, Room 838, Federal Communications Commission, Washington, D.C. 20554 (202-632-6312).

Adopted: January 2, 1979.

Released: January 4, 1979.

In the matter of fee refunds and future FCC fees, GEN Docket No. 78-316.[1]

1. On September 27, 1978, the Commission adopted a *Notice of Inquiry*, 43 FR 46658, concerning the above entitled proceeding. The present deadline for filing comments in Parts C and D of this proceeding is January 8, 1979.

2. General Electric Company has petitioned for a 60-day extension of time and the National Association of Broadcasters and the Land Mobile Communications Council have petitioned for a 30-day extension of time for filing comments in Parts C and D of this proceeding.

3. In support of their requests, petitioners state that this is an extremely complex matter, and that the Commission did grant an extension of time from November 8, 1978, to December 1, 1978, for filing comments on Part B of the *Notice of Inquiry*. General Electric Company also cites the need to consolidate the views from various parts of its company. Similarly, the Land Mobile Communications Council cites the need to analyze the comments received by its members. The National Association of Broadcasters also cites the problem of preparing comments during the Christmas and New Year holidays, as well as the fact that they are involved in several other major Commission proceedings.

4. Although we believe that some extension of time may be warranted, we note that interested parties were originally given 90 days in which to prepare comments. Moreover, the Commission is anxious to move forward with this proceeding, especially since the Commission has not collected any fees from any licensees since December, 1976. *Accordingly, it is ordered*, Pursuant to § 0.251(b) of the rules and regulations, 47 CFR 0.251(b), that the time for filing comments in Parts C and D of this proceeding is extended to February 1, 1979, but that the motions to extend time beyond February 1, 1979, are denied.

ROBERT R. BRUCE,
General Counsel.

[FR Doc. 79-1510 Filed 1-15-79; 8:45 am]

[1] See also 45 FR 53474, November 16, 1978.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

DAVY CROCKETT TIMBER MANAGEMENT PLAN, NATIONAL FORESTS IN TEXAS, LUFKIN, TEX.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Statement for the Davy Crockett Timber Management Plan.

The Davy Crockett Timber Management Plan will prescribe actions to be taken from FY 1980-1984. It will be incorporated into the Land Management Plan for the Davy Crockett National Forest prior to September 30, 1985.

Methods of cutting, types of site preparation, and reforestation procedures will be outlined. Intermediate stand treatments such as thinning, pre-commercial thinning and release will be discussed.

Multiple use coordination measures will be considered for recreation, wildlife (including endangered species), water, soil, minerals and range.

Other activities including forest insects and diseases, fire and transportation needs, archaeological and historical areas, air quality and socio-economic conditions will be covered.

John H. Courtenay, Forset Supervisor, is the responsible official, and David Oates, Director of Resources for the National Forests in Texas will be the team leader for the Environmental Assessment and Statement.

It is anticipated that the Environmental Assessment will require about four months. The Draft Environmental Statement is scheduled for completion by March 15, 1979, with a three month review period, and the Final Environmental Statement is scheduled for filing in August 1979. If the decision is to accept the proposed plan, it will be put into effect in FY 1980.

Comments on the Notice of Intent or on the proposed plan should be sent to John H. Courtenay, Forest Supervisor, National Forests in Texas, Lufkin, Texas 75901.

Dated: January 8, 1979.

JOHN H. COURTENAY,

Forest Supervisor.

[FR Doc. 79-1460 Filed 1-15-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. AND BASIN ELECTRIC POWER COOPERATIVE

Final Environmental Impact Statement

Notice is hereby give that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 with the proposed use of REA guaranteed loan funds by Basin Electric Power Cooperative 1717 E. Interstate Avenue, Bismark, North Dakota 58501, and Tri-State Generation and Transmission Association, Inc., 12076 Grand Street, Thornton, Colorado 80241 to finance a portion of proposed transmission facilities in the State of Nebraska for the Nebraska Public Power District. The facilities are proposed to be constructed in the counties of Cheyenne, Deuel, Keith, Lincoln, Custer, Sherman, Buffalo, Frontier, and Red Willow. The transmission facilities covered by this statement include the following:

1. Approximately 80 miles of 345 kV transmission line from Sidney, Nebraska, to Keystone, Nebraska.

2. Approximately 30 miles of 345 kV transmission line from Keystone, Nebraska, to the Gerald Gentleman power station near Sutherland, Nebraska.

3. Approximatley 130 miles of 345 kV transmission line from the Gerald Gentleman power station to Sweetwater, Nebraska.

4. Approximately 14 miles of 345 kV transmission line from Sweetwater, Nebraska, to Riverdale, Nebraska.

5. Approximately 75 miles of 345 kV transmission line from the Gerald Gentleman power station to Red Willow, Nebraska.

Items 3 and 5 listed above include 30 miles of double circuit construction proposed for the Gerald Gentleman to Sweetwater and Gerald Gentleman to Red Willow transmission line segments.

The statement also covers new substations at Keystone, Sweetwater, and Red Willow, and additions to existing substations at Sidney, Gerald Gentleman, and Riverdale.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C., Room 1268, or at Tri-State's or Basin Electric's address indicated above. Final action may be taken with respect to this matter ofter thirty (30) days.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 20 day of December, 1978.

ROBERT W. FERAGEN,
Administrator, Rural Electrification Administration.

[FR Doc. 79-1287 Filed 1-15-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 33411]

ATLANTA-MEMPHIS SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing February 27, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report and the Supplemental Pre-

hearing Conference Report, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 8, 1979.

KATHERINE A. KENT,

Administrative Law Judge.

[FR Doc. 79-1500 Filed 1-15-79; 8:45 am]

[6320-01-M]

[Docket No. 33012; Order 79-1-28]

THOMSON TRAVEL, LTD. (UNITED KINGDOM)

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of January 1979.

By application filed July 10, 1978, Thomson Travel Limited (United Kingdom) (TTL) requests issuance of a foreign air carrier permit authorizing it to engage in the indirect foreign air transportation of persons and their accompanying baggage between any point or points in the United States and any point or points outside the United States.[1]

No answers to the application and petition have been filed.

BACKGROUND

TTL is not a direct air carrier, operates no aircraft of its own, and does not propose to do so. A subsidiary of TTL, Britannia Airways Limited (Britannia), which is a direct air carrier, does possess a foreign air carrier permit issued pursuant to section 402 of the Federal Aviation Act of 1958 authorizing it to perform charter foreign air transportation primarily between the United States and the United Kingdom.[2]

TTL requests the Board issue it a foreign indirect air carrier permit authorizing it to engage in indirect air transportation through the organization of Advance Booking Charters, One-Stop Inclusive Tour Charters, Travel Group Charters, or any other type of charter service in foreign air transportation.

OWNERSHIP AND CONTROL

Thomson Travel Limited (United Kingdom) is a corporation organized on February 16, 1965,[3] in the United Kingdom, under the United Kingdom Companies Act of 1948. With its home office in London, TTL asserts it is Britain's largest operator of package holidays and engages in a wide variety of travel and holiday services.[4] It is organized into distinct operating functions: a charter airline, a tour operator, a hotel chain, and a travel agency chain.[5] These activities are carried out through Overseas Development Ltd. and Thomson Travel Holdings Ltd.[6] TTL is in turn the travel and holiday division of the Thomson Organization Limited, a large, diverse conglomerate, involved in newspapers, publishing, and travel and employing over 20,000 people.[7]

In assessing the fitness of Britannia Airways, a subsidiary of TTL, the Board previously described the ownership of the Thomson Organization Ltd. as follows: "by deed of trust dated March 18, 1970, a trust was formed transferring to the trustees the controlling interest in Thomson Television Ltd. which ultimately controls Britannia through several sudsidiary corporations, one of which is the Thomson Organization Ltd. * * * the beneficiaries of the trust are the children of K. R. Thomson, all of whom are Canadian citizens."[8] Upon review of the information available, the Board concluded that it should waive its policy of requiring that the citizenship of an air carrier be determined exclusively on the basis of the citizenship of its owners. As a general policy, the Board requires that ownership and control of a foreign air carrier be vested in citizens of the country of citizenship of the air carrier.[9] However, in the case of Britannia, and Thomson, we concluded that as a practical matter, even though the ultimate ownership was held by Canadian citizens the effective control of the organization was British in that, (1) all of its officers and directors were British citizens,[10] (2) British authorities exercise regulatory control over the applicant,[11] and (3) the Government of the United Kingdom transmitted the application through diplomatic channels to the Board.[12] Based on our review of the foregoing relationships, we have concluded that the carrier is still under the operational control of British citizens, and that therefore the waiver of our citizenship policy should continue.[13]

As stated, TTL, as an applicant for an indirect air carrier permit, is the principal holder of the stock of a direct air carrier—Britannia Airways Limited [14]—which holds section 402 authority from the Board authorizing charter service between the United States and the United Kingdom. We have previously expressed some reservations concerning corporate or control relationships between indirect and direct air carriers which could result in discriminatory actions or unfair competitive advantage.[15] In this case, however, the applicant has indicated a willingness to accept a condition prohibiting the use of Britannia by TTL on flights between the U.S. and the U.K. and we will impose such a restriction to eliminate the possibility of any unfair competitive advantage.[16] Based on the foregoing, we tentatively conclude that TTL is substantially and effectively controlled by citizens of the United Kingdom.

FINANCIAL AND OPERATIONAL FITNESS

The balance sheets of TTL show total assets in excess of total liabilities for the years ended December 31, 1976 and 1977.[17] The comparable statements of profit and loss show substantial profits before taxes of $11,760,000 for 1976 and $4,242,000 for 1977.[18] The most recent balance sheet for TTL shows assets of $36,177,000 and liabilities of $28,680,000, while the Thomson Organization Limited, the parent organization shows total assets of $418 million and total liabilities of $255 million.[19] In addition to the protection of customer payments offered by the company's existing investments, Parts 371, 372a, 373, 378a, and 380[20] of the Board's Special Regulations, which require surety bonding and escrow arrangements for U.S.-origin charters, provide additional protection for the funds of the charter passengers. Thus, it is tentatively concluded that all fitness requirements of Section 402 of the Act are met by the applicant.

PUBLIC INTEREST

On the basis of comity and reciprocity, we tentatively conclude that it is in the public interest to grant TTL a

[1] On July 28, 1978, TTL filed a petition for an order to show cause why its application should not be granted without a hearing.

[2] Order 77-3-21, served March 4, 1977.

[3] Application for Indirect Air Carrier Permit, Exhibit 6.

[4] *Ibid.*, Exhibit 4.

[5] *Ibid.*, Exhibit 4.

[6] *Ibid.*, Exhibit 7.

[7] *Ibid.*, Exhibit 2.

[8] Order 71-4-63, page 7 mimeo.

[9] *Canadian Pacific Airlines Limited Air Carrier Permit*, 10 C.A.B. 138 (1949).

[10] *Petition for an Order to Show Cause*, Docket 33012.

[11] Application for Indirect Air Carrier Permit, page 2.

[12] *Ibid.*, Exhibit 1.

[13] An identical conclusion was reached in *Britannia Airways Limited, Permit Renewal*, Order 77-3-21, served March 4, 1977.

[14] Application for Indirect Air Carrier Permit, Exhibit 7.

[15] See, for example, *Kuoni Travel Limited (Switzerland) d/b/a Kuoni Travel, Inc.*, Order 76-6-135.

[16] We are placing this condition in the order rather than in the permit to facilitate any revisions to our policy.

[17] Application for Indirect Air Carrier Permit, Exhibit 3, page 5.

[18] Data converted from £ to $ on basis of $2 per £.

[19] Application for Indirect Air Carrier Permit, Exhibit 2, page 23 and Exhibit 3, page 5.

[20] Part 380 governs Public Charters (SPR-145 to 154, ER1063 to 1069) (14 CFR Part 380) which soon will be added to all existing permits held by foreign indirect air carriers of passengers.

foreign indirect air carrier permit. No party has claimed that the United Kingdom has restricted the ability of persons of either U.S. or U.K. citizenship to become indirect air carriers.

On the basis of the foregoing, we tentatively find and conclude that:

1. Thomson Travel Limited (United Kingdom) is fit, willing and able properly to perform the indirect foreign air transportation described in the attached specimen permit and to adhere to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

2. Thomson Travel Limited is effectively controlled by citizens of the United Kingdom;

3. The public interest does not require an oral evidentiary hearing on the application; [21]

4. It is in the public interest to issue a foreign indirect air carrier permit in the form of the attached specimen to Thomson Travel Limited, authorizing the carrier to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return for a period of five years; and

5. The public interest requires that the exercise of the privileges granted by this permit should be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, to the conditions set forth in paragraphs (a), (b),(c) and (d) below, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

(a) With respect to the operations conducted pursuant to the authority granted, the holder shall be subject to the provisions of the Board's Regulations governing charter operations, as now or later amended;

(b) In using the authority granted by this permit, Thomson Travel Limited shall not utilize the services of Britannia Airways Limited, or any other affiliated direct air carrier, for transportation between the United States and the United Kingdom, during a period in which any interest exists, either directly or indirectly between Thomson Travel Limited (United Kingdom) and Britannia Airways Limited; and

(c) In the performance of any service authorized by this permit, the holder shall not extend or receive any preference or advantage of any nature to or from any affiliated direct air carrier, and with respect to all matters which may relate to the services authorized by its permit shall not deal with such direct air carrier except in a manner and on the same basis and terms as are available to any other indirect air carrier;

(d) In using this authority (1) the name Thomson Travel Limited (United Kingdom) shall appear on all of the holder's advertising, tickets, stationery, and other public documents; (2) the above name will always be used in its entirety; and (3) words designating the holder's nationality shall be displayed at least as prominently as its most prominently displayed name on any material disseminated to the public. For purposes of this order, the holders name shall include its legal name, trademarks, tradenames or any other name that may be used in conjunction with any of the above.

6. The grant of a permit to the applicant is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313(a)(1) of the Board's Regulations; and

7. Except to the extent granted, the application of Thomson Travel Limited in Docket 33012 should be denied.

Accordingly, 1. We direct interested persons to show cause why the Board should not make final its tentative findings and conclusions stated here, and why a foreign air carrier permit in the specimen form attached should not, subject to the disapproval of the President, be issued to Thomson Travel Limited (United Kingdom);

2. Any interested person objecting to the issuance of an order making final the tentative findings and conclusions stated here or to the issuance of the attached specimen permit, shall, not later than January 31, 1979, file with the Board and serve on the persons named in paragraph 5 below a statement of objections together with a summary of testimony, statistical data and any evidence expected to be relied upon to support the statement of objections. Answers to objections shall be filed not later than February 12, 1979;

3. We will give full consideration to timely filed and properly supported objections before taking further action, except that we may proceed to enter an order in accordance with the tentative findings and conclusions stated here if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing; [22]

4. In the event no objections are filed, we will waive all further procedural steps and we will direct the Secretary to enter an order which (1) shall make final the tentative findings and conclusions stated here, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue a foreign indirect air carrier permit to the applicant in the specimen form attached; and

5. We shall serve this order on Thomson Travel Limited (United Kingdom), the Ambassador of Great Britain and Northern Ireland in Washington, D.C., and the Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[23]
Secretary.

SPECIMEN PERMIT

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

Permit to Foreign Indirect Air Carrier

THOMSON TRAVEL LIMITED (UNITED KINGDOM) is authorized, subject to the following provisions, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations issued under the Act, to engage indirectly in foreign air transportation of persons and their accompanying baggage between any point or points in the United States and any point or points outside the United States.

This permit is subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of persons now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom shall be parties.

The exercise of these privileges is subject to the terms, conditions and limitations set forth in Order —— dated ———— and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against it in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of its operations under this permit.

This permit shall be effective on ————, and shall terminate in five years: *However,* if during this period the operation of the indirect foreign air transportation authorized becomes the subject of any treaty, convention or agreement to which the United States and the United Kingdom are or shall become parties, then this permit will continue in effect during the period provided in that treaty, convention, or agreement.

The Civil Aeronautics Board through its Secretary has executed this permit and affixed its seal on ————.

————,
Secretary.

[FR Doc. 79-1501 Filed 1-15-79; 8:45 am]

[21] Any interested persons objecting to issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed twenty-one (21) days in which to respond from the date of service of this order. Answers to objections shall be filed not later than ten days thereafter.

[22] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[23] All members concurred.

[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 10-5]

ASSISTANT SECRETARY FOR ADMINISTRATION

Organizational Function and Delegation of Authority

This order effective November 30, 1978 amends the material appearing at 43 FR 12354 of March 24, 1978.

Department Organization Order 10-5, dated February 21, 1978, is hereby amended as shown below. The purpose of this amendment is to reflect the consolidation of all procurement operations and staff-level procurement functions of the former Office of Administrative Services and Procurement and the functions of the former Office of ADP Management to form the new Office of Procurement and ADP Management.

The Appendix attached to this amendment supersedes the Appendix dated February 21, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration
GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.

APPENDIX

DEPARTMENTAL OFFICES AND UNITS WHICH REPORT TO THE ASSISTANT SECRETARY FOR ADMINISTRATION

Office of Administrative Services
Office of Audits
Office of Budget and Program Evaluation
Office of Civil Rights
Office of the Controller
Office of Intelligence Liaison
Office of Investigations and Security
Office of Organization and Management Systems
Office of Personnel
Office of Procurement and ADP Management
Office of Publications
Appeals Board (for administrative purposes only)

[FR Doc. 79-1473 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 15-8]

OFFICE OF THE INSPECTOR GENERAL

Statement of Organizational Function and Delegation of Authority

This order is effective November 27, 1978.

SECTION 1. PURPOSE

This Order reflects the establishment of the Office of the Inspector General and prescribes its functions.

SECTION 2. ORGANIZATION

01. The Inspector General Act of 1978 (hereinafter, the "Act"), enacted October 12, 1978 (Public Law 95-452; 5 U.S.C. Appendix), establishes in the Department of Commerce an Office of the Inspector General headed by an Inspector General appointed by the President by and with the advice and consent of the Senate. The statute provides that the Inspector General shall report to and be under the general supervision of the Secretary of Commerce.

02. The Office of the Inspector General shall consist of:

a. An Assistant Inspector General for Auditing;

b. An Assistant Inspector General for Investigations; and

c. Such organization units as the Inspector General, in conjunction with the Assistant Secretary for Administration, may establish for the purpose of carrying out assigned authorities and functions.

SECTION 3. AUTHORITIES AND FUNCTIONS

01. The Inspector General shall exercise the authorities and perform the functions set forth in the Act.

02. The Inspector General may delegate any authority conferred by this Order to any employee of the Office of the Inspector General, and may authorize further redelegation by any such employee, subject to such conditions as the Inspector General may prescribe.

03. The Assistant Inspector General for Auditing or the Assistant Inspector General for Investigations shall be designated to act as Inspector General in the latter's absence.

SECTION 4. SUPPORT SERVICES

The Assistant Secretary for Administration, in consultation with the Inspector General, shall ensure that the Department provides to the Office of the Inspector General personnel, space, accounting and payroll, and other administrative support services, as provided for in the Act, or as otherwise may be appropriate.

SECTION 5. TRANSFERS

01. Pursuant to the Act, there are transferred to the Office of the Inspector General: the Departmental Office of Audits, the Investigations and Inspections Staff of the Economic Development Administration, and that portion of the Departmental Office of Investigations and Security which has responsibility for investigation of alleged criminal violations and program abuse.

02. The personnel, assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, and allocations, and other funds employed, held, used, arising from, available or to be made available to the offices and staffs transferred under paragraph .01, above, are assigned to the Office of the Inspector General.

SECTION 6. TRANSITIONAL PROVISIONS

All rules, regulations, orders, determinations, authorizations, contracts, agreements, proceedings, audits, hearings, investigations, inspections, or other actions issued, undertaken, pending or entered into by and for the organization units transferred under paragraph 5.01 of this Order, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.
JUANITA M. KREPS,
Secretary of Commerce.

[FR Doc. 79-1474 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 25-5B, Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organizational Function and Delegation of Authority

This order effective November 14, 1978 amends the material appearing at 43 FR 51438 of November 3, 1978.

Department Organization Order 25-5B, dated October 16, 1978, is hereby amended as shown below. The purpose of this amendment is to establish, under the Administrator of NOAA, the National Climate Program Office authorized by the National Climate Program Act (P.L. 95-367).

1.a. A new Section 8. is added to read as follows:

"SECTION 8. NATIONAL CLIMATE PROGRAM OFFICE

"The *National Climate Program Office* (NCPO), whose director shall report to and act under the direction of the Assistant Administrator for Research and Development acting on behalf of the Administrator, shall act as the focal point within the Federal government to administer the National Climate Program. The Office shall coordinate, plan, and serve national efforts in climate. In order to implement the National Climate Program Act, the Office shall:

"● Develop the National Climate Program, including preparation of national climate plans.

"● Define the roles of the various Federal departments and agencies in

the National Climate Program and provide for Program coordination.

"● Assist in the creation and maintenance of advisory committees and interagency groups concerned with the development of the National Climate Program.

"● Cooperate and participate with other Federal agencies, including the Department of State, and foreign international and domestic organizations and agencies involved in international or domestic climate-programs.

"● Assist the Administrator in establishing an intergovernmental program for Federal and State cooperative activities in climate studies and advisory services.

"● Administer and monitor grants for research to public or private educational institutions, State agencies, and other persons or institutions qualified to conduct climate related studies or provide climate-related services.

"● Coordinate with and assist the Office of Management and Budget in the preparation of a horizontal budget for the National Climate Program.

"● Prepare the annual report on the National Climate Program.

"● Otherwise administer the National Climate Program Act, under the guidance of the Admininstrator, including the development of appropriate rules, regulations, policies, and procedures."

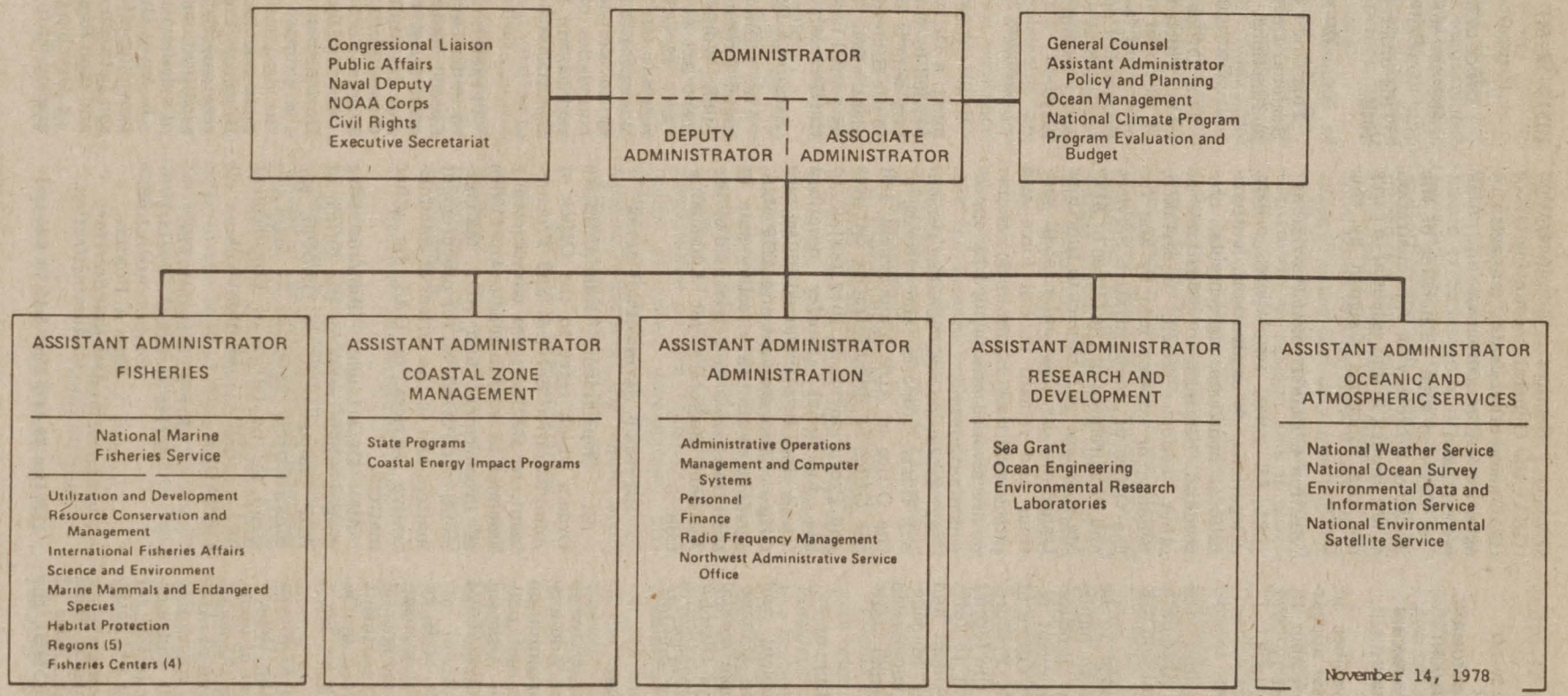
b. In pen and ink, renumber the existing Sections 8 through 14 as Sections 9 through 15.

2. The organization chart, Exhibit 1, attached to this amendment, supersedes the organization chart dated October 16, 1978. A copy of the organization chart is on file with the original of this document in the Office of the FEDERAL REGISTER.

GUY W. CHAMBERLAIN,

Acting Assistant Secretary for Administration.

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration



November 14, 1978

[FR Doc. 79-1476 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 20-14]

OFFICE OF PROCUREMENT AND AUTOMATIC DATA PROCESSING MANAGEMENT

Statement of Organizational Function and Delegation of Authority

This order effective November 30, 1978 supersedes the material appearing at 41 FR 50320 of November 15, 1976, 42 FR 41467 of August 17, 1977, and 43 FR 785 of January 4, 1978.

SECTION 1. PURPOSE

.01 This Order establishes the Office of Procurement and Automatic Data Processing Management and prescribes its functions.

.02 This Order is intended to be only a temporary measure to implement the consolidation of procurement and staff-level procurement responsibilities of the former Office of Administrative Services and Procurement and the functions of the former Office of ADP Management to form the new Office of Procurement and Automatic Data Processing Management. This Order will be superseded by a more complete functional statement in the near future.

SECTION 2. STATUS AND LINE OF AUTHORITY

The Office of Procurement and Automatic Data Processing Management (OP&ADPM), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration.

SECTION 3. FUNCTIONS

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary may prescribe, OP&ADPM shall:

a. Have Departmentwide staff responsibility for procurement management, and perform procurement for all elements of the Department, except as otherwise provided in Department Administrative Order 208-2, "Procurement Authority;"

b. Provide a full range of ADP services for all elements of the Department, including development of plans, policies, and procedures for the acquisition, use and management of ADP resources, conducting or sponsoring studies and applied research, and operation of a central computer facility for the Office of the Secretary and designated operating units;

c. Serve as a Departmental focal point for dealing with the Office of Management and Budget (OMB), the General Services Administration (GSA), the General Accounting Office (GAO), and other central management agencies on procurement and ADP matters; and

d. Exercise such authorities of the Assistant Secretary for Administration as are implicit in and essential to carry out the functions assigned by this Order.

SECTION 4. TRANSITIONAL PROVISIONS

.01 All rules, regulations, orders, delegations, determinations, authorizations, contracts, agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending, or entered into by and for the Office of Administrative Services and Procurement or the Office of ADP Management with respect to functions transferred by this Order, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

.02 The resources, including personnel, funds, property, and records, of the Office of ADP Management and the Office of Administrative Services and Procurement, as they pertain to the functional transfer described above, shall be transferred to the new Office of Procurement and ADP Management, with the effective date of such transfers to be determined by the Assistant Secretary for Administration.

SECTION 5. SAVINGS PROVISIONS

All Department Administrative Orders which refer to the Office of Administrative Services and Procurement, or OAS&P, are constructively amended to refer instead to the Office of Procurement and ADP Management, or OP&ADPM, for procurement matters and to the Office of Administrative Services, or OAS, for other matters.

All Department Administrative Orders which refer to the Office of ADP Management, or OADPM, are constructively amended to refer instead to the Office of Procurement and ADP Management, or OP&ADPM.

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.
ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1475 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 15-5]

OFFICE OF REGIONAL DEVELOPMENT

Statement of Organizational Function and Delegation of Authority

This order is effective December 6, 1978.

SECTION 1. PURPOSE

This Order establishes the Office of Regional Development and prescribes its functions.

SECTION 2. ESTABLISHMENT

The Office of Regional Development, which is now under the Office of Regional Affairs and Program Coordination (as the Office of Regional Economic Coordination), is hereby established as a separate organizational entity within the Office of the Secretary.

SECTION 3. STATUS AND LINE OF AUTHORITY

The Office of Regional Development, a Departmental office, shall be headed by the Assistant to the Secretary who is also the Special Assistant to the Secretary for Regional Development (the "Special Assistant") and who shall report and be responsible to the Secretary.

SECTION 4. DELEGATION OF AUTHORITY

The authorities of the Secretary under Executive Order 11386 and the Public Works and Economic Development Act of 1965, as amended, (the "Act" 42 U.S.C. 3181 *et seq.*) which relate to the Title V regional commissions program, except for the authority to designate or to modify the boundaries of economic development regions, are hereby delegated to the Special Assistant.

SECTION 5. FUNCTIONS

In exercising the authorities delegated under Section 4 of this Order, the Special Assistant shall, where necessary, assist the Federal Cochairmen, and in dealings with the Regional Commissions shall work through the Federal Cochairmen.

Specifically, the Office of Regional Development shall:

a. Propose or review proposals for the designation of economic development regions and the establishment of Regional Commissions, and develop recommendations to the Secretary for modifications in the geographic area of a designated region.

b. Assist the Federal Cochairmen in providing effective and continuing liaison between the Federal Government and each Regional Commission.

c. Develop for the Secretary, in cooperation with the Federal Cochairmen,

guidelines for the use of funds appropriated under Title V of the Act, including standards for meeting the requirements of Section 604 of the Act for proper and efficient management of projects; and review for the Secretary's action proposed budgets and subsequent financial plans submitted by the Federal Cochairmen on behalf of the Regional Commissions.

d. Be responsible for issuance of instructions (in accordance with Section 7, subparagraph 102a. of the Department of Commerce Handbook of Accounting Principles and Standards) to establish and administer a system of fund control over funds appropriated for Regional Development Programs, as authorized by Title V of the Act. The instructions shall include provisions to assure that Federal Cochairmen, in accordance with approved financial plans, will have final authority to commit such funds for Federal grant and supplements approved by the Regional Commissions and for technical, planning assistance, and administrative grants to the Regional Commissions.

e. Assist the Secretary in communicating to the Federal Cochairmen such policies affecting regional development and any other forms of program guidance and policy direction with respect to their Federal functions as the Secretary may establish.

f. In cooperation with the Deputy Under Secretary, assure adequate coordination and support between the Regional Commissions and all Commerce organizations, such coordination encompassing technical assistance, planning, development, and the execution of economic development activities, including individual projects.

g. Assist the Secretary in achieving effective coordination of the activities of the Federal Government relating to regional development.

h. With the Federal Cochairmen, obtain a coordinated review within the Federal Government of plans (including comprehensive long-range economic development plans), programs, proposals, and recommendations submitted by the Regional Commissions; and based on such coordinated review, comment on and present such matters to the Secretary for appropriate action.

i. Serve as the Executive Secretary of the Federal Advisory Council on Regional Economic Development (the "Council") established by Executive Order 11386, and provide staff support to the Council or successor mechanisms in performing its functions set forth in the Executive Order and as may be requested by the Secretary.

j. Perform or sponsor research related to objectives of Title V of the Act, coordinating such research plans with the Federal Cochairmen.

k. Develop, in collaboration with the Federal Cochairmen, proposed agreements or memoranda of understanding between the Federal Cochairmen and other Federal agencies when required for the conduct of Regional Commission programs; attempt to resolve by mutual agreement any differences in policy that may arise between a Federal Cochairman and a Federal department or agency, and, if necessary, propose action to the Secretary for resolving such questions.

l. Review proposed Regional Commission annual reports prior to transmittal to the Congress.

m. Review the effectiveness of programs of Regional Commissions in achieving statutory objectives, and submit recommendations thereon to the individual Federal Cochairmen and, when appropriate, to the Secretary.

n. Perform such other duties as may be necessary to assist the Secretary and the Federal Cochairmen, including the development of policies and legislative proposals relating to regional development.

o. Provide budgetary services to the Federal Cochairmen and arrange for the provision of other support services by units of the Department as may be required by the Federal Cochairmen.

p. Initiate, coordinate, and support, in cooperation with the Federal Cochairmen, pilot projects or incentive programs in support of relevant Administration policies, regional growth policy processes, development programs, and planning, provided that such activities meet the requirements of Section 505(a)(1) of the Act.

SECTION 6. IMPLEMENTATION

The funds, records, property, and employees of the Office of Regional Economic Coordination are hereby transferred to the Office of Regional Development.

SECTION 7. SAVINGS PROVISION

Any Department Organization Orders or Department Administrative Orders which mention the Special Assistant to the Secretary for Regional Economic Coordination or the Office of Regional Economic Coordination are hereby constructively amended to refer to the Special Assistant to the Secretary for Regional Development and to the Office of Regional Development.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1472 Filed 1-15-79; 8:45 am]

[3910-17-M]

Office of the Secretary

INDUSTRY SECTOR ADVISORY COMMITTEES AND COMMITTEE OF INDUSTRY SECTOR ADVISORY COMMITTEE CHAIRMAN FOR MULTILATERAL TRADE NEGOTIATIONS

Renewal

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Secretary of Commerce (hereinafter the Secretary) and the Special Representative for Trade Negotiations (hereinafter the Special Representative) jointly have determined to renew the 27 Industry Sector Advisory Committees (as enumerated below) and the Committee of Industry Sector Advisory Committee Chairman under the provisions of Subsection 135(c)(2) of the Trade Act of 1974 and the Federal Advisory Committee Act, 5 U.S.C. App. (1976). In reaching such decision the Secretary and the Special Representative have consulted with interested private organizations and have taken into account the factors set forth in Subsection 135(c)(2)(B) of the Trade Act of 1974.

Twenty-six of the sector committees were originally established by the Secretary of Commerce and the President's Special Trade Representative in April 1974 pursuant to the Federal Advisory Committee Act and in May 1975, were re-established pursuant to the provisions of Subsection 135(c)(2) of the Trade Act of 1974. The twenty-seventh sector committee was established in July 1975, pursuant to the provisions of Subsection 135(c)(2) of the Trade Act of 1974. All 27 sector committees were re-chartered May 26, 1977. The Committee of Industry Sector Advisory Committee Chairmen was established January 31, 1977, pursuant to the provisions of Subsection 135(c)(2). These 28 committees are used solely for advisory purposes by the Special Representative, in conjunction with the Secretary, on matters which are of mutual concern to each of the committee's particular industry sector and to the United States, in connection with the multilateral trade negotiations undertaken by the United States pursuant to Sections 101 and 102 of the Trade Act of 1974.

Each committee performs such functions and duties and prepares such reports as provided for in Section 135 of the Trade Act of 1974 with respect to sector advisory committees established pursuant to Subsection 135(c)(2) thereof. In particular, each Committee provides detailed views, information, and recommendations regarding trade barriers which affect the products of its sector; maintains liaison with the relevant activities of the Industry

Policy Advisory Committee for Multilateral Trade Negotiations (IPAC), including, when necessary, sending a representative to IPAC meetings where the Committee's recommendations are reviewed; provides additional advice, as necessary, on specific product considerations which arise during the course of the negotiations; and performs such other advisory functions relevant to the trade negotiations as may be requested by the Secretary and the Special Representative or their designees.

Each sector committee has balanced representation consisting of approximately 25 members appointed from and reasonably representative of the industries encompassed in each of the individual committee sectors. Members are appointed jointly by the Secretary and the Special Representative and serve at the discretion of the Secretary and the Special Representative. The Committee of Chairmen is composed of the 27 chairmen of the sector committees.

Each committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and Section 135 of the Trade Act of 1974.

Copies of each committee's charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress.

Inquiries or comments may be addressed to Mr. Edgar J. Gealy, Coordinator, Industry Consultations Policy Staff, Office of International Trade Policy, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230, telephone (202) 377-3268.

The aforementioned 27 Industry Sector Advisory Committees for Multilateral Trade Negotiations (MTN) include the following:

Food and Kindred Products
Textiles and Apparel
Lumber and Wood Products
Paper and Products
Industrial Chemicals and Fertilizers
Drugs, Soaps, Cleaners, and Toilet Preparations
Paints, Gum and Wood Chemicals, and Miscellaneous Chemical Products
Rubber and Plastic Materials
Leather and Products
Stone, Clay, and Glass Products
Ferrous Metals and Products
Nonferrous Metals and Products
Hand Tools, Cutlery, and Tableware
Other Fabricated Metal Products
Construction, Mining, Agricultural, and Oil Field Machinery and Equipment
Office and Computing Equipment
Machine Tools, Other Metalworking Equipment, and Other Nonelectrical Machinery
Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines
Consumer Electronic Products and Household Appliances
Scientific and Controlling Instruments
Photographic Equipment and Supplies
Communication Equipment and Non-Consumer Electronic Equipment
Railroad Equipment and Miscellaneous Transportation Equipment
Aerospace Equipment
Automotive Equipment
Miscellaneous Manufactures, Toys, Musical Instruments, Furniture, etc.
Retailing

Dated: January 8, 1979.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-1477 Filed 1-15-79; 8:45 am]

[3510-17-M]

INDUSTRY POLICY ADVISORY COMMITTEE FOR MULTILATERAL TRADE NEGOTIATIONS

Renewal

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Secretary of Commerce (hereinafter the Secretary) and the Special Representative for Trade Negotiations (hereinafter the Special Representative) jointly have determined to renew the Industry Policy Advisory Committee under the provisions of Section 135(c)(1) of the Trade Act of 1974 and the Federal Advisory Committee Act, 5 U.S.C. App. (1976).

The Committee was originally established by the Secretary of Commerce and the President's Special Trade Representative in February 1974, pursuant to the Federal Advisory Committee Act, and in May 1975 was re-established pursuant to the provisions of Section 135(c)(1) of the Trade Act of 1974. The Committee was re-chartered May 26, 1977.

The Committee advises, consults with, and makes recommendations to the Special Representative for Trade Negotiations, in conjunction with the Secretary of Commerce, on matters concerning the multilateral trade negotiations to be undertaken by the United States pursuant to Sections 101 and 102 of the Trade Act of 1974.

The Committee draws on the expertise and knowledge of its members, on the technical advice of a number of related technical-level advisory committees which are established for individual product sectors of the American industry, and on such data as may from time to time be provided it by the Department and by the Office of the Special Representative for Trade Negotiations.

The Committee (a) provides policy advice regarding overall industry views and the work programs of the related technical-level advisory committees; (b) maintains continuing liaison with the ongoing work of the technical-level committees; (c) reviews and advises on the U.S. Government-prepared summary of the general thrust of recommendations developed in the various technical-level committees' sector papers for their relation to overall industry views; (d) furnishes supplementary policy advice, as necessary, regarding significant developments arising during the course of the actual negotiations; and (e) performs such other advisory functions as may be requested by the Secretary of Commerce and the Special Representative for Trade Negotiations.

The Committee is composed of approximately 20 members appointed from, and reasonably representative of, U.S. industry by the Secretary and the Special Representative. Members are appointed jointly by the Secretary and the Special Representative and serve at the discretion of the Secretary and the Special Representative.

The Committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and Section 135 of the Trade Act of 1974.

Copies of the Committee's charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress concurrent with the publication of this notice.

Inquiries or comments may be addressed to Mr. Edgar J. Gealy, Coordinator, Industry Consultations Policy Staff, Office of International Trade Policy, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3268.

Dated: January 8, 1979.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-1478 Filed 1-15-79; 8:45 am]

[3510-17-M]

Office of the Secretary

PRIVACY ACT OF 1974

Proposed New System of Records, Proposed Amendment of Existing System of Records, Proposed Additional Routine Use for Existing System of Records

The three purposes of this system are the following:

(1) Propose a new Privacy Act System of Records for the Executive Secretariat of the Department of Commerce; (2) Amend an existing system of records to include National Bureau of Standards records; and (3) Amend the safeguard section of an existing system of records.

Pursuant to 5 U.S.C. 552a(e) (4) and (11), Section 3 of the Privacy Act of 1974 (P.L. 93-579, 88 Stat. 1896), the Department of Commerce hereby: (1) Proposes to adopt a new system of records for the Executive Secretariat of the Department of Commerce entitled: Secretarial Correspondence File,

COMMERCE/DEPT-22. The Executive Secretariat was established in 1962 as the central coordinating staff to review correspondence addressed to the Secretary of Commerce, Under Secretary, or Assistant Secretary for Congressional Affairs, and to review correspondence submitted by Department units for the attention of the Secretary or Under Secretary to ensure completeness and timeliness of replies.

The purpose of the proposed system COMMERCE/DEPT-22 is to furnish the Executive Secretariat with data that identify each item of correspondence and provide the status of reply. The system will also provide statistical reports to inform management of subject matters gaining significant public interest. The Executive Secretariat maintains the current files for Secretarial correspondence and related records. Retired files are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

Due to an increase in the volume of correspondence and the time spent in report preparation, the Department recently began to convert to an automated Secretarial correspondence control system. The first stage of the automated system was initiated on July 5, 1978 within the Executive Secretariat. The planned second and final stage, to operate the system Department-wide, will commence at a later date. The system's first stage is currently in operation and is being tested for deficiencies. Although the contractor maintains some of the records at the present time, when the system proves operationally successful, all records will be located within the Department of Commerce and the contractor will not maintain any portion of the records.

During the conversion process from a manual to an automated system, a review of the Executive Secretariat office procedures and of record categories indicated that the system of records may contain personal information, particularly in a case where the correspondent seeks assistance to resolve a personal matter. Therefore, in light of the new retrieval capabilities of the automated system, all Secretarial correspondence and related records will be maintained in the proposed Privacy Act system of records, except as noted in the system location section of the system description.

A complete description of the system is set forth below.

(2) Proposes to include the carpool locator records of the National Bureau of Standards in the Privacy Act System of Records entitled: Department Mailing List, COMMERCE/DEPT-19.

NBS maintains an automated carpool locator system of records that contains information on individuals who voluntarily submit applications to form carpools. Although the system is a part of an existing carpool locator system in the Department, the NBS system was not previously noticed due to an administrative oversight.

The purpose of the system is to assist NBS employees in identifying other individuals who are interested in carpool membership. Since the system offers social benefits, records may be distributed also to non-NBS individuals who are employed at sites in the Gaithersburg, Maryland area.

The system is an administrative service and has no effect on NBS program areas. A complete description of the system is set forth below.

(3) Proposes to amend the safeguard section of the Privacy Act System of Records entitled: Freedom of Information and Privacy Request Records-COMMERCE/DEPT—21. The amendment pertains to access to records in the system by individuals who submit requests for access under the Freedom of Information Act. The amended safeguard section would read as follows:

Safeguards:

At all locations: Privacy Act request records are stored in file cabinets in secured premises with access limited to those whose official duties require access. Freedom of Information request records are generally available to the public.

A complete description of the system is set forth below.

As required by the Privacy Act, the Commerce Department submitted a New System Report dated January 5, 1979 to the Congress and to the Office of Management and Budget.

Although the Act requires the opportunity for public comment only on the proposed new routine uses, comments regarding any portion of this notice will be given due consideration before final publication. Any interested person may submit written data, views, or arguments to the Assistant Secretary for Administration (Attention: Information Management Division, Room 5319) U.S. Department of Commerce, 14 & E Streets NW., Washington, D.C. 20230, any time on or before February 15, 1979. The comments will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

These systems of records will become effective 60 days from January 5, 1979 (March 6, 1979), unless the Department notices to the contrary.

AUTHORITY: 5 U.S.C. 552(a), (e)(4) and (11), sec. 3 of the Privacy Act of 1974 (Pub. L. 93-759, 88 Stat. 1896).

Dated: January 5, 1979.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

COMMERCE/DEPT-19

System name:

Department Mailing Lists-COMMERCE/DEPT-19.

System location:

a. Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

b. United States Fire Administration, Washington, D.C. 20230.

c. Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

d. Office of General Service, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For carpool locator records of NBS: Facilities Services Division, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

Categories of individuals covered by the system:

At location a.: 1. Persons employed in the Suitland Federal Center who have voluntarily submitted an application to be included in the carpool locator system and be listed as a possible carpool member, and 2. Subscribers to Bureau of the Census publications.

At location b.: All regular publication recipients, all individuals who have requested that they be placed on a mailing list or requested information about USFA, and individuals attending USFA-sponsored conferences.

At location c.: Subscribers to OMBE publications and/or representatives of the media who receives OMBE material at their home addresses.

At location d.: Former employees of the Patent and Trademark Office who have requested that their names be included on a newsletter mailing list.

At location e.: Individuals who have voluntarily submitted an application to be included in the carpool locator system and to be listed as a potential carpool member.

Categories of records in the system:

At location a.: 1. Carpool records include name, address, work week, hours of work, work location, work phone number, willingness to join in a carpool, willingness to participate as a driver or rider in a carpool, zip code. 2. Subscriber lists include name and home address.

At location b.: Name, title, affiliation, address and telephone number.

At location c.: Name and home address.

At location d.: Name and home address.

At location e.: Carpool locator records include applicant's name, home address, zip code, work week, work hours, work location, office telephone number, willingness to join a carpool, willingness to participate as a driver or rider in a carpool.

Authority for maintenance of the system:

5 U.S.C. 301; 15 U.S.C. 1512, 2205, 2208, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For all locations, see general routine uses of Prefatory Statement. For records at location a.: Carpool records are disseminated to other persons working at the Suitland Federal Center who have voluntarily listed themselves to form carpools; home address is suppressed.

For records at location b. Information is provided to Federal, State, local or international agencies in response to a written request indicating a likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

For records at location e.: Carpool locator records are disseminated to individuals working at or near the NBS site, who request information on carpools. (Home addresses are withheld.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage:

Paper copy in file folders, computer tape, mailing labels.

Retrievability:

Alphabetically by name, and for records at location a., by zip code.

Safeguards:

Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal:

Records are retained in accordance with each unit's Records Control Schedule.

System manager(s) and address:

For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Associate Administrator, National Fire Data Center, USFA, U.S. Department of Commerce, P.O. Box 19518, Washington, D.C. 20036.

For records at location c.: Chief of Information, Office of Public Affairs, OMBE, Washington, D.C. 20230.

For records at location d.: Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Director of Administrative and Information Systems, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

Notification procedure:

For records at location a.: Information may be obtained from: Associate Director for Administration, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.

For records at location b.: Information may be obtained from: Administrative Officer, USFA, Washington, D.C. 20230.

For records at location c.: Privacy Officer, Office of Chief Counsel, Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d.: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Information may be obtained from system manager at the same address shown above. Requests should provide applicant's name and address in accord with the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to: Same address of the desired location as stated in the Notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories:

Subject individuals, and those authorized by subject individual.

Commerce/Dept-21

System name:

Freedom of Information and Privacy Request Records-COMMERCE/DEPT-21.

System location:

a. For PA request records of BEA: Office of the Director, Bureau of Economic Analysis, 1401 K Street, N.W., Washington, D.C. 20230.

b. For FOIA request records of CENSUS: Freedom of Information Request Control Desk, Bureau of the Census, Federal Building 3, Suitland, Md. 20233.

c. For FOIA and PA request records of ITA: Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

d. For PA request records of MARAD: Office of the Secretary of the Maritime Administration, and offices of MARAD Privacy Act System managers, U.S. Department of Commerce, Washington, D.C. 20230. A complete address list of system managers is available upon request.

e. For FOIA and PA request records of USFA: Freedom of Information Request Control Desk and Administrative Office, respectively, United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20037.

f. For FOIA request records of NOAA: Freedom of Information Request Control Desk, National Oceanic and Atmospheric Admininstration, WSC #5, Rockville, Md. 20852.

g. For FOIA request records of NTIA: Freedom of Information Request Control Desk, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

h. For PA request records of the Office of the Secretary: Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system:

Individuals who have requested records under the Freedom of Information and/or Privacy Acts contained in files maintained by the organizational units shown in the System Location paragraph above.

Categories of records in the system:

Incoming requests; correspondence developed during processing of requests; initial and final determination letters; records summarizing pertinent facts about requests and action taken; copy or description of records released; description of records denied (copies of records denied are not kept with these files).

Authority for maintenance of the system:

5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 552a and 44 U.S.C. 3101.

Routine uses of records maintined in the system, including categories uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Department management and legal personnel to assure that each request receives an appropriate reply and to compile data for the required annual reports on activities

under the Acts. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

At all locations: Paper records in file folders or loose-leaf binders.

Retrievability:

At location c.: by control number assigned to each request based on date of receipt.

At all other locations: Alphabetically by name of requester.

Safeguards:

At all locations: Privacy Act request records are stored in file cabinets in secured premises with access limited to those whose official duties require access. Freedom of Information request records are generally available to the public.

Retention and disposal:

Records are disposed of in accordance with the appropriate records disposition authorization approved by the Archivist of the United States.

System manager(s) and address:

For records at location a.: Chief Planning and Evaluation Officer, BEA.

For records at location b.: Associate Director for Administration and Field Operation, Bureau of the Census.

For FOIA records at location c.: Freedom of Information Officer, ITA.

For PA records at location c.: Director, Office of Management and Systems, ITA.

For records at location d.: Secretary of the Maritime Administration.

For FOIA records at location e.: Chief Counsel, USFA.

For PA records at location e.: Administrative Officer, USFA.

For records at location f.: Assistant Administrator for Administration, NOAA.

For records at location g.: Director of Congressional and Public Affairs, NTIA.

For records at location h.: Director, Office of Organization and Management Systems, U.S. Department of Commerce.

For each system manager, use the same address as shown for that unit in the System Location section above.

Notification procedure: For records at locations a., b., d., f., and h.: Some individual and address for each as shown in System Manager section above.

For records at locations c. and e.: Same individual and address for each as shown for Privacy Act records in System Manager section above.

For records at location g.: Privacy Officer, NTIA, same address as shown in System Manager section above.

Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories:

The individual making the request, and records derived from the processing of Freedom of Information and Privacy Act requests.

Commerce/Dept-22

System name:

Secretarial Correspondence Files—COMMERCE/DEPT-22

System location:

Executive Secretariart for the Office of the Secretary; U.S. Department of Commerce; 14th & Constitution Avenue, N.W., Washington, D.C. 20230. Records at this location may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the system manager identified below. Records may also be temporarily located at a contractor's installation: Dialcom Inc., 1104 Spring Street, Silver Spring, Md. 20910.

Categories of individuals covered by the system:

(a) Individuals who correspond with the Secretary of Commerce, Under Secretary, or Assistant Secretary for Congressional Affairs. (b) Individuals whose correspondence has been referred by the White House, other Executive agencies or Members of Congress to the Secretary or Under Secretary for response. In these two categories, the individuals include only those who express views or seek information or assistance. Freedom of Information Act or Privacy Act requests are not indexed in this system (see Freedom of Information and Privacy Request Records—COMMERCE/DEPT-21).

Categories of records in the system:

The system may include the name and address of correspondent, summary of subject matter, original correspondence, Department's response, referral letters, memoranda or notes concerning the subject of the correspondence, or copies of any enclosures. The records in the system are arranged numerically by control number assigned to each item of correspondence.

Authority for maintenance of the system:

5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by personnel in the Executive Secretariat of the Department and in administrative offices of each operating unit of the Department to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest.

Information from or copies of the records may be provided to the original addressee of the original correspondence. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Maintained in paper form by the Executive Secretariat and on magnetic tape by the contractor (temporarily).

Retrievability:

By control number, by correspondent's name, by subject, by addressee, by category of writer (e.g., Congressman, White House Staff, Cabinet member, mayor, citizen) by category of correspondence, by Executive Secretariat analysts' identification code, by type of priority for response time, or possibly by city and state of correspondent's address.

Safeguards:

Paper records and magnetic tape are stored in file cabinets on secured premises with access limited to personnel whose official duties require access.

Retention and disposal:

Records are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

System manager and address:

Director, Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure:

Requests for information should be addressed to the system manager and should provide the correspondent's

name as included in original correspondence, or provide any items listed under the retrievability section above pursuant to the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

Record access procedures:

Request for access and disclosures should be addressed to the system manager as shown above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and for appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Requests for correction should be addressed to manager as shown above.

Record source categories:

The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response.

[FR Doc. 79-1411 Filed 1-15-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 78-395, 78-396; File Nos. BPCT-4925, 4955; FCC 78-914]

COMMERCIAL RADIO INSTITUTE, INC., AND CHRISTIAN VOICE OF CENTRAL OHIO

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: December 21, 1978.

Released: January 8, 1979.

By the Commission: Commissioner Lee absent.

In re applications of Commercial Radio Institute, Inc., Columbus, Ohio, BC Docket No. 78-395, File No. BPCT-4925; Christian Voice of Central Ohio, Columbus, Ohio, BC Docket No. 78-396, File No. BPCT-4955; For a construction permit for a new Television Broadcast Station.

1. The Commission has before it the above-captioned applications of Commercial Radio Institute, Inc., (CRI) and Christian Voice of Central Ohio (Voice) for a construction permit for a new television broadcast station on channel 28, Columbus, Ohio. These applications are mutually exclusive in that operation of both stations, as proposed, would result in mutually destructive interference.

2. The grade A service contour of Voice's proposed television station would completely encompass the community of Gahanna, Ohio. Gahanna is the community of license of FM station WCVO, which is licensed to Voice. Section 73.636(a)(1) of the Commission's Rules (the "one-to-a-market" rule) sets out a policy against granting television construction permits to applicants who directly or indirectly own, operate or control a radio station licensed to a community which is completely encompassed by the grade A service contour of their proposed television station. Note 8 to this rule provides that applications for UHF television facilities "will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be designated against Voice to determine whether common ownership of its FM station and its proposed television station would be consistent with the public interest.

3. Except as indicated in the issues specified below, we find CRI and Voice legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, we are unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. These applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

4. *Accordingly, it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above captioned applications of Commercial Radio Insititute, Inc., and Christian Voice of Central Ohio are designated for hearing in a consolidated proceeding to be held before an administrative law judge at a time and place to be specified in a subsequent ORDER, upon the following issues:

1. To determine whether common ownership, operation or control of station WCVO(FM) and Christian Voice of Central Ohio's proposed television station would be in the public interest.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1496 Filed 1-15-79; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: January 3, 1979.

Released: January 9, 1979.

CUT-OFF DATE: February 20, 1979.

Notice is hereby given that the FM boradcast application listed below will be considered as ready and available for processing on February 21, 1979. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Lowell M. Bush dba Joy Broadcasters (File No. BPH-10,744), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.552(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-11,011 NEW, Lancaster, Wisconsin, Beverly J. Peterson and Bert R. Peterson, a Partnership, REQ: 97.7 MHz, #249; 3.0 kW; 216 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1495 Filed 1-15-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

SECURITY STATE BANCSHARES, INC.

Formation of Bank Holding Company

Security State Bancshares, Inc., Stockdale, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more (less director's qualifying shares) of the voting shares of Security State Bank, Stockdale, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors

or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 1, 1979. Any comment on an applicaton that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 10, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1463 Filed 1-15-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

TRANSMITTAL RULES

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Scovill Manufacturing Company and Eaton Corporation are granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition by Scovill of certain assets of Eaton. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1511 Filed 1-15-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on January 9, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 5, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new, single-time questionnaire which will be sent, under compulsory process authorized by 15 U.S.C. 46, to the bar associations of the 50 states and the District of Columbia. This questionnaire, part of a non-public law enforcement investigation, requests information concerning the regulation of the practice of law. The overall purpose of the FTC's investigation is to determine whether or not providers of legal services are subject to acts or practices which are unfair, deceptive or anticompetitive in violation of the Federal Trade Commission Act. The investigation is focused on restrictions placed on prepaid legal plans, legal clinics and the ownership of entities offering legal services to the public. Also being considered are issues concerning specialty certification or designation and mandatory continuing education requirements for lawyers. The FTC estimates respondent burden will average 30 hours for each of the 51 respondents.

The FTC requests clearance of a new special report "Acquisition and Mergers by Corporate Chains", Forms 1859-A, 1859-B, and Supplement. The FTC will send the special report forms to retail and wholesale food companies. The companies will not have to complete the forms unless they acquire a food retail or wholesale company within the meaning of the Commission's 1967 "Enforcement Policy with Respect to Mergers in the Food Distribution Industry." If such an acquisition occurs, the submission of the forms is mandatory. The completed forms will become a part of the Commission's confidential records. The purpose of the forms is to determine if anticompetitive mergers are occurring in the food distribution industries in possible violation of the laws enforced by the Commission. The FTC estimates that respondents will number approximately 30 annually and that reporting burden will average 15 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-1520 Filed 1-15-79; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to Section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), Annual Reports for all Alcohol, Drug Abuse, and Mental Health Administration Committees have been filed with the Library of Congress. These are:

Alcohol Research Review Committee
Alcohol Training Review Committee
Biological Sciences Training Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Community Alcoholism Services Review Committee
Continuing Education Review Committee
Crime and Delinquency Review Committee
Developmental Problems Research Review Committee

Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemiologic Studies Review Committee
Experimental and Special Training Review Committee
Experimental Psychology Research Review Committee
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolitan Mental Health Problems Review Committee
Minority Advisory Committee, ADAMHA
Minority Group Mental Health Programs Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
Neuropsychology Research Review Committee
Paraprofessional Manpower Development Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychological Sciences Fellowship Review Committee
Psychology Education Review Committee
Rape Prevention and Control Advisory Committee
Research Scientist Development Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee
Social Sciences Training Review Committee
Social Work Education Review Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9:00 a.m. and 4:30 p.m., at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independ>ence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-6791.

Dated: January 8, 1979.

GERALD L. KLERMAN, M.D.,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1418 Filed 1-15-79; 8:45 am]

[4110-88-M]

CRIME AND DELINQUENCY REVIEW COMMITTEE

Meeting Change

In FEDERAL REGISTER Document 78-35125 appearing on page 59136 in the issue of Tuesday, December 19, there has been rescheduling of the January 24-26, 1979 meeting as follows:

CRIME AND DELINQUENCY REVIEW COMMITTEE

February 14-16, 1979; 9:00 a.m.—Franklin Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015. Open—February 14, 9:00-11:00 a.m. Closed—Otherwise.

All other information remains as announced December 19, 1978.

Dated: January 10, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1417 Filed 1-15-79; 8:45 am]

[4110-88-M]

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of February 1979:

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

February 20-21; 9:00 a.m., conference Room N, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—February 20-21. Contact: Ms. Elizabeth S. Kutzke, Room 10C-03, 5600 Fishers Lane, Rockville, Marylamd 20857, 301-443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problem of rape.

Agenda: The entire meeting will be open to the public. The two-day meeting of the Advisory Committee will be devoted to providing input on the National Center's fiscal year 1979 program activities.

Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact person listed above.

Dated: January 10, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc 79-1416 Filed 1-15-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Bacterial Vaccines and Toxoids Panel	February 1 and 2, 9 a.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Rockville, MD.	Open public hearing, February 1, 9 a.m. to 10 a.m.; open committee discussion, February 1, 10 a.m. to 4 p.m.; February 2, 9 a.m. to 4 p.m.; Jack Gertzog (HFB-5), 11400 Rockville Pike, Rockville, MD 20014, 301-443-5455.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open Committee discussion. The Committee will review the Division of Bacterial Products' intramural science program.

Committee name	Date, time, place	Type of meeting and contact person
2. Physical Medicine Devices Section of the Surgical and Rehabilitation Devices Panel.	February 6 and 7, 9 a.m., Rm. 1813, 200 C St. SW., Washington, D.C.	Open public hearing, February 6, 9 a.m. to 10 a.m.; open committee discussion, February 6, 10 a.m. to 4 p.m.; February 7, 10 a.m. to 4 p.m.; Johnsie W. Bailey (HFK-410), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the agenda of this notice to Johnsie W. Bailey. Submission of data related to tentative classification findings is also invited. Those desiring to make formal presentations should notify Ms. Bailey by January 23, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss exemptions for class I orthotic and prosthetic devices and classification voice-controlled and breath-operated devices, bed rocket units, powered cast cutters, cast cutter accessories, and additional devices, and will hear a presentation by representatives of the American Orthotic and Prosthetic Association.

Committee name	Date, time, place	Type of meeting and contact person
3. Ad Hoc Subcommittee of the Drug Abuse Advisory Committee to Study the "Effects of Scheduling".	February 11, 9 a.m., Linden Hill Hotel, Bethesda, MD.	Open public hearing, 9 a.m to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. This Subcommittee is charged with the study of "effects of scheduling." Various information sources will be examined and discussed as they relate to data required in the area of abuse of prescription drug products.

Committee name	Date, time, place	Type of meeting and contact person
4. Drug Abuse Advisory Committee.....	February 12 and 13, 9 a.m., Conference Room G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, February 12, 9 a.m. to 10 a.m.; open committee discussion, February 12, 10 a.m. to 4:30 p.m.; February 13, 9 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Propriram—an evaluation for safety and efficacy, an assessment of abuse potential, and a research protocol review, and Propoxyphene—a preliminary review of the medical and scientific data as it pertains to the issue of Controlled Substances Act of 1970 scheduling.

Committee name	Date, time, place	Type of meeting and contact person
5. Endocrinologic and Metabolic Drugs Advisory Committee.	February 15 and 16, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, February 15, 9 a.m. to 10 a.m.; open committee discussion, February 15, 10 a.m. to 5 p.m.; February 16, 9 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss safety and efficacy of the following lipid lowering agents: (a) Clofibrate (NDA 16-099); (b) Gemfibrozil (IND 8057); and (c) Dextrothyroxine (NDA 12-302); and protocols for phase IV study for lipid lowering agents.

Committee name	Date, time, place	Type of meeting and contact person
6. Clinical Chemistry Section and Hematology Section of the Clinical Chemistry and Hematology Devices Panel.	February 16, 9 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Eugene W. Rice (HFK-440), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to serum "vitamin B12" and diagnosis of cobalamin deficiency to Eugene Rice. Submission of data related to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Rice by February 2, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss and evaluate the data and information presented on serum vitamin B12 determinations. Current radioisotope dilution assays are believed to be not specific for true cobalamin because of cobalamin analogs present in human plasma that can mask cobalamin deficiency.

Committee name	Date, time, place	Type of meeting and contact person
7. Subcommittee on Hepatotoxicity of the Gastrointestinal Drugs Advisory Committee.	February 16, 9 a.m., Conference Rm. K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will develop appendixes to the guidelines for detection of hepatotoxicity post-Fogarty conference and short guidelines for special patient populations, including children and patients with pre-existing liver disease.

Committee name	Date, time, place	Type of meeting and contact person
8. Neurological Devices Section of the Respiratory and Nervous System Devices Panel.	February 23, 9 a.m., Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Robert F. Munzner (HFK-430), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

General function of the Committee. The Committee reviews and evaluates available date concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the classification and evaluation of neurological devices to Robert F. Munzner. Submission of data related to classification findings is also invited. Those desiring to make formal presentations should notify Dr. Munzner by February 16, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss the classification of ultrasonic surgical aspirators; the clinical evaluation protocols for cerebrospinal fluid shunt components being introduced into commerce; and the comments received on the proposals on development of classification of neurological devices published in the FEDERAL REGISTER on November 28, 1978 (43 FR 55640).

Committee name	Date, time, place	Type of meeting and contact person
9. Antimicrobial Panel	February 23 and 24, 9 a.m., Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, (February 23); Connecticut Rm., Holiday Inn, Bethesda, MD, (February 24).	Open public hearing, February 23, 9 a.m. to 10 a.m.; open committee discussion, February 23, 10 a.m. to 4:30 p.m.; February 24, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before February 20, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact person
10. Non-Steroidal Anti-Inflammatory Drugs Subcommittee of the Arthritis Advisory Committee.	February 26, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will draft the revised nonsteroidal anti-inflammatory drugs guidelines and will discuss toxicity data in acetyl-salicylic acid studies.

Committee name	Date, time, place	Type of meeting and contact person
11. Slow-Acting Anti-Rheumatic Drugs Subcommittee of the Arthritis Advisory Committee.	February 27, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational perscription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss phase IV studies: A Study of the Clinical Design of the Slow-Acting Anti-Rheumatic Drugs (SAARD) Guidelines and the next full draft of the SAARD guidelines.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockeville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated January 12, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1561 Filed 1-15-79; 8:45 am]

[4110-03-M]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Circulatory Devices Panel	February 2, 9 a.m., Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing February 2, 9 a.m. to 10 a.m.; closed committee deliberations February 2, 10 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the classification of cardiovascular devices. Those desiring to make formal presentations should notify Glenn A. Rahmoeller by January 26, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Committee will review premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
2. Immunology Section of the Immunology and Microbiology Devices Panel and Obstetrics-Gynecology Section of the Obstetrics-Gynecology and Radiologic Devices Panel.	February 26 and 27, 9 a.m., Silver Room, Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.	Open public hearing February 26, 9 a.m. to 4:30 p.m.; closed committee deliberations February 27, 9 a.m. to 5 p.m.; William C. Dierksheide (HFK-440), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the use of the alpha fetoprotein test for neural tube defects to Dr. William C. Dierksheide. Submission of data pertaining to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Dierksheide by February 12, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Committee will review premarket approval applications P780001, P780005, and P780006. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum

time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Avisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: January 12, 1979.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-1562 Filed 1-15-79; 8:45 am]

[4110-89-M]

Office of the Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before February 14, 1979, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: January 11, 1979.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY

Degrees an Other Formal Awards Conferred Between July 1, 1978 and June 30, 1979

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics

3. AGENCY FORM NUMBERS

NCES 2300-2.1 A & B

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Center shall—

(1) Collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) Conduct and publish reports on specialized analyses of the meaning and significance of such statistics; * * *" (20 U.S.C. 1221e) Pub. L. 93-380, sec. 406(b).

Section 601. "No person in the United States shall, on the gounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. 2000d-2000d-4) Pub. L. 88-352.

Section 901. "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance,* * *" (20 U.S.C. 1681) Pub. L. 92-318.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary

6. HOW INFORMATION COLLECTED WILL BE USED

The Office for Civil Rights (OCR) of DHEW uses the data from this survey in carrying out its responsibilities to verify compliance or lack of compliance with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. The National Center for Education Statistics (NCES) uses the data from this survey in carrying out its responsibilities to provide "full and complete statistics on the conditions of education in the United States."

These data also are used by the Bureau of Labor Statistics (BLS) of the Department of Labor, in their projections of manpower, and by the National Science Foundation (NSF) to help them carry out their mission respecting the discipline divisions and discipline specialities in the divisions of Science and Engineering. These data also are used by the Congressional Research Service of the Library of Congress in preparing information for the Members of the Congress, to help them assess the changing and developing needs of our Nation with respect to manpower and higher education. The data also are used by the Equal Employment Opportunities Commission (EEOC), the Center for Disease Control, the U.S. Civil Service Commission, and the Personnel Departments of all of the branches of the Armed Forces. The data also are used by Dr. William C. Gescheider, Director of Planning of the Bureau of Higher and Continuing Education of the U.S. Office of Education, ASE, DHEW, in his program planning for that Bureau.

In addition to the above uses by the Federal Government, these data are used by many national associations and agencies for the benefit of the higher education enterprise, by regional associations, State higher education agencies and associations, by individual institutions of higher education, and by guidance counselors in high schools and colleges, as well as by private citizens. Moreover, the data from this survey are used by a large number of businesses and industries to help them meet the requirements of Executive Order 11246, respecting the development and implementation of Affirmative Action Plans and the equal opportunity program for women.

Since the only revision in this form over the previous year's form is the addition of the racial/ethnic categories, please see the justification submitted for the previous year's form for additional details.

7. DATA ACQUISITION PLAN

a. METHOD OF COLLECTION: Mail

b. TIME OF COLLECTION: Academic year 1978-79; due date: August 15, 1979

c. FREQUENCY: Annually

8. RESPONDENTS

a. TYPE: Institutions of Higher Education

b. NUMBER: 3,100—Universe

c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.5

9. INFORMATION TO BE COLLECTED

The data to be collected are the number of earned degrees and other formal awards conferred in the academic year 1978-79 by each of the 3,100 accredited institutions of higher education in the aggregate United States, by level of degree, discipline division and specialty, sex and racial/ethnic category of student, and control and level of institution.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY

HEGIS Post-survey Validation of "Fall Enrollment in Colleges and Universities, 1977" and "Degrees and Other Formal Awards Conferred, 1967-77"

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics

3. AGENCY FORM NUMBER

NCES 2410

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Center shall—

(1) Collect, collate, and from time to time, report full and complete statistics on the conditions of education in the United States;

(2) Conduct and publish reports on specialized analyses of the meaning and significance of such statistics; * * * " (20 U.S.C. 1221e) Pub. L. 93-380, sec. 406(b).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary

6. HOW INFORMATION COLLECTED WILL BE USED

The results of this program management activity will be used to:

(a) Publish estimates as to the accuracy of published NCES data relating to enrollments and degrees awarded in colleges and universities, and

(b) Prepare modifications to data collection forms and instructions to improve their accuracy and completeness.

7. DATA ACQUISITION PLAN

a. METHOD OF COLLECTION: Personal Interview

b. TIME OF COLLECTION: Spring 1979

c. FREQUENCY: One time

8. RESPONDENTS

a. TYPE: Colleges and Universities

b. NUMBER: 120

c. ESTIMATED MANHOURS PER RESPONDENT: 3

9. INFORMATION TO BE COLLECTED

The information to be collected includes:

(a) Methods of collecting and recording enrollment and degree data;

(b) Differences in definitions and reporting dates between HEGIS and the institution's internal reports;

(c) Problem areas in classifying students by level and field of study;

(d) Comparison of reports required by State agencies with HEGIS reports (timing, definitions, etc.);

(e) Special reporting problems.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY

A Study of the Nature and Effects of Selected Title I, ESEA Implementation Strategies: Survey of Schools that Receive Compensatory Funds

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Evaluation and Dissemination

3. AGENCY FORM NUMBER

OE 679-1; -2

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 417(a)(2) of Pub. L. 93-380 directs the Commissioner of Education to conduct a survey and report to the Congress on how many educationally and/or economically disadvantaged children do or do not receive services under Title I, ESEA, as amended.

Section 183(a) of title, I, ESEA as amended by Pub. L. 95-561 requires that "The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects." (20 U.S.C. 2833)

Section 417(a)(1) of Pub. L. 93-380 requires that "* * * the Secretary shall transmit to the * * * (Congress) * * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes." (20 U.S.C. 1226c)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information collected in this survey will be used to: (1) Report to Congress on the incidence of receipt of compensatory funds in the nation's school attendance areas; (2) determine the impact of proposed legislative changes on the number and nature of school attendance areas and their resident students that might receive Title I funds/services; and (3) determine the representativeness of a subsample of school attendance areas to be studied in greater detail during the subsequent school year.

7. DATA ACQUISITION PLAN

a. METHOD OF COLLECTION: Mail/telephone

b. TIME OF COLLECTION: Spring, 1980.

c. FREQUENCY: once

8. RESPONDENTS

a. TYPE: LEA Federal Programs Coordinator

b. NUMBER: 3000

c. ESTIMATED AVERAGE PERSON-HOURS PER RESPONDENT: .4 hour

a. TYPE: School Principal

b. NUMBER: 7000

c. ESTIMATED AVERAGE PERSON-HOURS PER RESPONDENT: .2 hour

9. INFORMATION TO BE COLLECTED

RESPONDENT TYPE: LEA Federal Program Coordinator

- District's Title I Allocation Practices
- District's Rankings of Sample School Attendance Areas
- Provision of Services to Non-Public School Students

RESPONDENT TYPE: Principals

- Enrollment Practices
- Student Composition
- Receipt of Compensatory Funds
- Services Provided
- Students Served
- Schools From (To) Which Students Are Drawn (Sent)

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY

Standards for Industrial Arts Education Programs Project: Survey of State Supervisors of Industrial Arts, Survey of Principals in Secondary Schools, Survey of Guidance Coordinators in Secondary Schools, and Survey of Industrial Arts Chairpersons

2. AGENCY/BUREAU/OFFICE

Office of Education, Bureau of Occupational and Adult Education

3. AGENCY FORM NUMBER

OE Forms 680-1, -2, -3, -4

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 171(a). Funds reserved to the Commissioner * * * shall be used * * * for contracts * * * for—

(1) activities authorized by sections 131 (applied research and development in vocational education) * * *"

(Pub. L. 94-482, title II, Section 202; 20 U.S.C. 2401).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

There are two primary purposes for the conduct of the evaluation study. First, the study will determine the current status of industrial arts in this country. The last status study of industrial arts conducted by HEW was in 1962-1963. The information will also be used to help develop standards for industrial arts education programs. All instruments are designed to acquire these status and standards data. Current data does not exist on a nationwide basis for determining the status of industrial arts education programs. Also, there are no national standards existing for industrial arts education.

7. DATA ACQUISITION PLAN

a. METHOD OF COLLECTION: Mail

b. TIME OF COLLECTION: Spring (April-May) 1979

c. FREQUENCY: Single time

8. RESPONDENTS

a. TYPE: Other (State and Territorial Supervisors of Industrial Arts Education)

b. NUMBER: 57 (Universe)

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1.0

a. TYPE: Principals (School)

b. NUMBER: 2,500 (Sample)

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 0.5

a. TYPE: School administrators and supervisors (Guidance coordinators)

b. NUMBER: 2,500 (Sample)

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 0.3

a. TYPE: Teachers, elementary/secondary (Industrial arts chairpersons in public schools)

b. NUMBER: 2,500 (Sample)

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1.0

9. INFORMATION TO BE COLLECTED

For OE Form 680-1 (Survey of State Supervisors of Industrial Arts) the data to be collected will consist of staffing enrollment, curriculum, facilities, finances structure, evaluation, and student organization.

For OE Form 680-2 (Survey of Principals in Secondary Schools) the data to be collected will consist of school organization, purposes of industrial arts, funding, staffing, course offering, future planning, and student organization.

For OE Form 680-3 (Survey of Guidance Coordinators in Secondary Schools) the data to be collected will consist of purposes of industrial arts, student placement/scheduling, program evaluation, counselor/teacher relationship, and student organization.

For OE Form 680-4 (Survey of Industrial Arts Chairpersons) the data to be collected will consist of purposes of industrial arts, teacher demographics, teacher/program evaluation, professional involvement, facilities, enrollments, finances, program, and student organization.

[FR Doc. 79-1462 Filed 1-15-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Publication AA-6681-A and AA-6681-B; Alaska Native Claims Selection

On December 27 and 30, 1968, the State filed general purposes grant selection applications pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), for certain lands on the Alaska Peninsula. Applications AA-5298, AA-5325, AA-5330, AA-5368, AA-5375, AA-5376, AA-5377, AA-5378 and AA-5379 selected lands in T. 48 S., Rs. 75, 76 and 77 W., T. 49 S., Rs. 76, 77, 78 and 79 W., and T. 50 S., Rs. 76, 77, 78 and 79 W., Seward Meridian, respectively. On June 16, 1972, each application was amended to include all the lands in the townships, excluding patented lands.

The Bureau of Indian Affairs filed an application on December 12, 1968, to withdraw all unreserved public lands in Alaska for the determination and protection of the rights of the Alaska Natives. Subsequently on January 17, 1969, Public Land Order 4582 was issued to affirm the withdrawal of all unreserved lands in Alaska from all forms of appropriation and disposition under the public land laws except locations for metalliferous minerals. Public Land Order 4582 further provided that applications filed by the State of Alaska after December 12, 1968, and prior to January 4, 1969, must be embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 or the Coal Leasing Act of 1914 in order to be a valid selection application.

Since the lands selected in State selection applications AA-5298, AA-5330, AA-5375, AA-5376 and AA-5378, filed December 27 and December 30, 1968, were not entirely within lands embraced in leases, etc., these applications must be and are hereby rejected as to the following described lands:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

STATE SELECTION AA-5298

T. 48 S., R. 75 W.
Sec. 26 (fractional), SW¼

Containing approximately 10 acres.

T. 49 S., R. 76 W.
Secs. 4 and 8 (fractional), all;
Sec. 9 (fractional), W½.

Containing approximately 120 acres.

STATE SELECTION AA-5375

T. 49 S., R. 77 W.
Sec. 2 (fractional), W½;
Secs. 4 and 5 (fractional), all;
Sec. 7 (fractional), N½, SE¼;
Secs. 8 and 9 (fractional), all;
Sec. 10 (fractional), W½.

Containing approximately 1,538 acres.

STATE SELECTION AA-5376

T. 49 S., R. 78 W.
Sec. 12 (fractional), NE¼.

Containing approximately 118 acres.

STATE SELECTION AA-5330

T. 49 S., R. 79 W.
Sec. 1 (fractional), all.

Containing approximately 95 acres.

STATE SELECTION AA-5378

T. 50 S., R. 78 W.
Secs. 31, 32 and 33, all;
Sec. 34, W½.

Containing approximately 2,222 acres.
Aggregating approximately 4,103 acres.

Section 11(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610(a) (Supp. V, 1975)), withdrew the lands surrounding the Native village of Nelson Lagoon, including lands in the subject State selection applications for Native selection. Nelson Lagoon Corporation filed selection applications AA-6681-A on September 12, 1974, AA-6681-B on December 13, 1974, under the provisions of section 12 of the Alaska Native Claims Settlement Act for lands within the subject State selections.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by section 11(a).

Section 11(a)(2) further withdrew for possible selection by the Native corporation those lands within the townships described in section 11(a)(1) that have been selected by, or tentatively approved to, but not yet patented to the State under the Alaska Statehood Act.

Section 12(a) further provided, however, that no village corporation may select more than 69,120 acres from lands withdrawn by section 11(a)(2).

The lands described below were properly selected by Nelson Lagoon Corportion in village selection applications AA-6681-A and AA-6681-B, accordingly, the State selection applications AA-5298, AA-5235, AA-5330, AA-5368, AA-5375, AA-5376, AA-5377, AA-5378 and AA-5379 are hereby rejected, as to the following described lands:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

STATE SELECTION AA-5298

T. 48 S., R. 75 W.
Secs. 14 to 17 (fractional), inclusive, all;
Secs. 19 to 23 (fractional), inclusive, all;
Sec. 25 (fractional), all;
Sec. 26 (fractional), SE¼SE¼;
Secs. 27, 29 and 30 (fractional), all;
Secs. 34 and 35 (fractional), all;
Sec. 36, all.

Containing approximately 2,170 acres.

T. 48 S., R. 76 W.
Secs. 19 (fractional), excluding Native allotment AA-7094 Parcel A;
Sec. 20 (fractional), all;
Secs. 21, 22 and 23 (fractional), all;
Secs. 26, 27 and 28 (fractional), all;
Sec. 29 (fractional), all;
Sec. 30 (fractional), all.

Containing approximately 765 acres.

T. 49 S., R. 76 W.
Secs. 1, 2 and 3 (fractional), all;
Sec. 7 (fractional), all;
Sec. 9 (fractional), E½;
Secs. 10 and 11, all;
Secs. 12, 13 and 14 (fractional), all;
Sec. 15, all;
Secs. 16, 17 and 18 (fractional), all;
Sec. 21, all;
Secs. 22, 27 and 28 (fractional), all;
Secs. 33 and 34 (fractional), all.

Containing approximately 8,405 acres.

STATE SELECTION AA-5325

T. 50 S., R. 76 W.
Secs. 1, 3 and 10 (fractional), all;
Secs. 11, 12 and 13 (fractional), all;
Secs. 24, 25 and 36 (fractional), all.

Containing approximately 3,305 acres.

STATE SELECTION AA-5368

T. 48 S., R. 77 W. (Fractional)
All.

Containing approximately 1,040 acres.

STATE SELECTION AA-5375

T. 49 S., R. 77 W.
Sec. 2 (fractional), E½;
Sec. 7 (fractional), SW¼;
Sec. 10 (fractional), E¼;
Sec. 11 (fractional), all;
Sec. 12 (fractional), excluding Native allotment AA-7262.

Containing approximately 1,385 acres.

STATE SELECTION AA-5377

T. 50 S., R. 77 W.
Secs. 25 to 36, inclusive, all.

Containing approximately 7,643 acres.

STATE SELECTION AA-5376

T. 49 S., R. 78 W.
Secs. 2 to 6 (fractional), inclusive, all;
Sec. 7, all;
Secs. 8, 9 and 10 (fractional), all;
Sec. 11 (fractional), excluding Native allotment AA-6465 Parcel B;
Sec. 12 (fractional), W½, SE¼;
Secs. 17, 18 and 19, all;
Secs. 30 and 31, all.

Containing approximately 7,517 acres.

STATE SELECTION AA-5378

T. 50 S., R. 78 W.
Secs. 4 to 10, inclusive, all;
Sec. 14, excluding Native allotment AA-6465 Parcel C;
Secs. 15, 16 and 17, all;
Secs. 19 to 28, inclusive, all;
Sec. 29, excluding Native allotment AA-7094 Parcel C;
Sec. 30, all;
Secs. 34, E½;
Secs. 35 and 36, all.

Containing approximately 16,152 acres.

STATE SELECTION AA-5330

T. 49 S., R. 79 W.
Secs. 8 to 11 (fractional), inclusive, all;
Sec. 12, all;
Secs. 15, 16 and 17, all;
Sec. 18 (fractional), all;
Secs. 19 to 22, inclusive, all;
Secs. 25 and 27, all;
Secs. 29, 30 and 36, all.

Containing approximately 10,138 acres.

STATE SELECTION AA-5379

T. 50 S., R. 79 W.
Secs. 1 and 12, excluding Native allotment AA-7359 Parcel A.

Containing approximately 1,230 acres.
Aggregating approximately 59,750 acres.

Further action on State selection applications AA-5298, AA-5325, AA-5330, AA-5375, AA-5376, AA-5377, AA-5378 and AA-5379, as to those lands not rejected herein, will be taken at a latter date. State selection application AA-5368, is hereby rejected in its entirety and the case will be closed when this decision becomes final.

The total amount of State selected lands rejected to permit the conveyance hereafter given, totals approximately 59,750 acres, which is less than the 69,120 acres permitted by section 12(a)(1) of the Alaska Native Claims Settlement Act.

As to the lands described below, the applications submitted by Nelson Lagoon Corporation, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 63,462 acres, is considered proper for acquisition by Nelson Lagoon Corporation and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 48 S., R. 75 W.
Secs. 14 to 17 (fractional), inclusive, all;
Secs. 19 to 23 (fractional), inclusive, all;
Secs. 25, 26 and 27 (fractional), all;
Secs. 29 and 30, (fractional), all;
Secs. 34 and 35 (fractional), all;

Sec. 36, all.

Containing approximately 2,180 acres.

T. 48 S., R. 76 W.
Sec. 19 (fractional), excluding U.S. Survey 499, and Native allotment AA-7094 Parcel A;
Sec. 20 (fractional), excluding U.S. Survey 662 and U.S. Survey 663;
Secs. 21, 22 and 23 (fractional), all;
Secs. 26, 27 and 28 (fractional), all;
Sec. 29 (fractional); excluding U.S. Survey 498;
Sec. 30 (fractional), all.

Containing approximately 765 acres.

T. 49 S., R. 76 W.
Secs. 1 to 4 (fractional), inclusive, all;
Secs. 7, 8 and 9 (fractional), all;
Secs. 10 and 11, all;
Secs. 12, 13 and 14 (fractional), all;
Sec. 15, all;
Secs. 16, 17 and 18 (fractional), all;
Sec. 21, all;
Secs. 22, 27 and 28 (fractional), all;
Secs. 33 and 34 (fractional), all.

Containing approximately 8,525 acres.

T. 50 S., R. 76 W.
Secs. 1, 3 and 10 (fractional), all;
Secs. 11, 12 and 13 (fractional), all;
Secs. 24, 25 and 36 (fractional), all.

Containing approximately 3,305 acres.

T. 48 S., R. 77 W.
Secs. 24, 25, 26 and 27 (fractional), all;
Secs. 31, 32, 33 and 34 (fractional), all.

Containing approximately 1,040 acres.

T. 49 S., R. 77 W.
Secs. 2, 4 and 5 (fractional), all;
Secs. 7 to 11 (fractional), inclusive, all;
Secs. 12 (fractional), excluding Native allotment AA-7262.

Containing approximately 2,923 acres.

T. 50 S., R. 77 W.
Secs. 25 to 36, inclusive, all.

Containing approximately 7,643 acres.

T. 49 S., R. 78 W.
Secs. 2 to 6 (fractional), inclusive, all;
Sec. 7, all;
Secs. 8, 9 and 10 (fractional), all;
Sec. 11 (fractional), excluding Native allotment AA-6465 Parcel B;
Sec. 12 (fractional), excluding Native allotment AA-6466 Parcel C;
Secs. 17, 18, 19 and 30, excluding Caribou River;
Secs. 31, all.

Containing approximately 7,284 acres.

T. 50 S., R. 78 W.
Secs. 4 to 10, inclusive, all;
Sec. 14, excluding Native allotment AA-6465 Parcel C;
Secs. 15, 16 and 17, all;
Secs. 19 to 28, inclusive, all;
Sec. 29, excluding native allotment AA-7094 Parcel C;
Sec. 30, all;
Sec. 31, excluding Native allotment AA-7094 Parcel B;
Secs. 32 to 36, inclusive, all.

Containing approximately 18,334 acres.

T. 49 S., R. 79 W.
Sec. 1 (fractional), all;
Secs. 8 to 11 (fractional), inclusive, all;
Sec. 12, all;
Secs. 15, 16 and 17, all;
Sec. 18 (fractional), all;
Secs. 19 to 22, inclusive, all;
Sec. 25, all;
Secs. 27 and 29, all;
Secs. 30 and 36, all.

Containing approximately 10,233 acres.

T. 50 S., R. 79 W.
Secs. 1 and 12, excluding Native allotment AA-7359 Parcel A.

Containing approximately 1,230 acres.
Aggregating approximately 63,462 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6681-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 D9) An easement for a bush airstrip two-hundred and fifty (250) feet in width and three-thousand (3,000) feet in length, lying in a north-south direction, located in Sec. 30, T. 50 S., R. 77 W., Seward Meridian. This size is minimum for public safety.

b. (EIN 1a D9) An easement for an existing access trail twenty-five (25) feet in width from the north-south bush airstrip, EIN 1 D9, located in Sec. 30, T. 50 S., R. 77 W., Seward Meridian, east to the east-west bush airstrip, EIN 1b D9, thence, to site easement EIN 1c D9. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 1b D9) An easement for a bush airstrip two-hundred and fifty (250) feet in width and three-thousand (3,000) feet in length lying in an east-west direction located in Sec. 30, T. 50 S., R. 77 W., Seward Meridian. This size is minimum for public safety.

d. (EIN 1c D9) A fishery management and public use easement upland of the ordinary highwater mark in Sec. 30, T. 50 S., R. 77 W., Seward Meridian, on the north bank of the Sapsuk River. The easement is five (5) acres in size with an additional twenty-five (25) foot wide extension on the bed of the river along the entire waterfront of the easement. The easement is used for camping, staging, vehicle use and for fishery management purposes.

e. (EIN 3 C4) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 1c D9 in Sec. 30, T. 50 S., R. 77 W., Seward Meridian, northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN 4 D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

g. (EIN 5 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

h. (EIN 6 C4, E) An easement for a proposed access trail fifty (50) feet in width from the shore of Mud Bay located in Sec. 34, T. 49 S., R. 76 W., Seward Meridian, southwesterly to public lands in T. 50 S., R. 76 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 7 C4, E) An easement for a proposed access trail fifty (50) feet in width beginning at Nelson Lagoon near the mouth of Frank Creek located in Sec. 7, T. 49 S., R. 77 W., Seward Meridian, southerly to public lands in Sec. 18, T. 49 S., R. 77 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

j. (EIN 8 C4, E) An easement for a proposed access trail twenty-five (25) feet in width from the right bank of the Caribou River in Sec. 19, T. 49 S., R. 78 W., Seward Meridian, easterly to public lands in Sec. 20, T. 49 S., R. 78 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978 and published as final rulemaking on November 27, 1978, 43 FR 55326. Con-

formance will be made at a later date in accordance with the terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, Nelson Lagoon Corporation and other Aleut village corporations.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. A right-of-way, AA-15144, located in Sec. 24, T. 48 S., R. 77 W., Seward Meridian and Secs. 19 and 20, T. 48 S., R. 76 W., Seward Meridian, fifty (50) feet each side of the centerline, for an access road, issued to the State of Alaska, Department of Transportation under the provisions of the act of October 21, 1976 (90 Stat. 2743, 2776; 43 U.S.C. 1701, 1761);

4. A right-of-way, AA-14291, located in Sec. 24, T. 48 S., R. 77 W., Seward Meridian, ten (10) feet each side of the centerline, for an electrical distribution system and a wind turbine generation system for the State of Alaska, Department of Commerce and Economical Development under the provisions of the act of October 21, 1976 (90 Stat. 2743, 2776; 43 U.S.C. 1701, 1761);

5. Airport Lease, AA-14244, located in Sec. 20, T. 48 S., R. 76 W., Seward Meridian, containing approximately 88 acres issued to the State of Alaska, Division of Aviation under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970));

6. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of lands hereinabove granted, as are prescribed in said section; and

7. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, Nelson Lagoon Corporation and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Nelson Lagoon Corporation, serialized AA-6681-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Nelson Lagoon Corporation is entitled to conveyance of 69120 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, 63,462 acres of this entitlement have been approved for conveyance; the remaining entitlement of 5,658 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to The Aleut Corporation when conveyance is granted to Nelson Lagoon Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water body, within the described lands, is considered to be navigable:

Caribou River from its mouth to the southern boundary of Sec. 30, T. 49 S., R. 78 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until February 15, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Nelson Lagoon Corporation or The Aleut Corporation objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is taken the adverse parties to be served are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Nelson Lagoon Corporation, Nelson Lagoon, Alaska 99695.

The Aleut Corporation, 833 Gambell Street, Anchorage, Alaska 99501.

JUDITH A. KAMMINS,
Chief, Division of ANCSA Operations.

[FR Doc. 79-1464 Filed 1-15-79; 8:45 am]

[4310-84-M]

[NM 35699, 35705, 35706]

NEW MEXICO

Applications

JANUARY 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 6 W.,
Sec. 26, W½SE¼.
T. 26 N., R. 7 W.,
Sec. 4, SW¼NE¼, SE¼NW¼ and N½SW¼.
T. 32 N., R. 9 W.,
Sec. 31, lot 7.

These pipelines will convey natural gas across 0.633 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1465 Filed 1-15-79; 8:45 am]

[4310-84-M]

[NM 35694, 35695 and 35696]

NEW MEXICO

Applications

JANUARY 8, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 4, SW¼NE¼, W½SE¼ and SE¼.
T. 31 N., R. 9 W.,
Sec. 6, lots 10 and 13.
T. 31 N., R. 11 W.,
Sec. 23, SE¼NW¼.

These pipelines will convey natural gas across 0.773 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their names and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1466 Filed 1-15-79; 8:45 am]

[4310-84-M]

[NM 35634]

NEW MEXICO

Application

JANUARY 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 30 E.,
Sec. 15, SW¼NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 0.25 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1467 Filed 1-15-79; 8:45 am]

[4310-84-M]

UTAH

Review and Updating of Planning Documents

AGENCY: Bureau of Land Management (BLM), U.S. Department of the Interior.

ACTION: Review and Updating of Planning Documents.

SUMMARY: This notice is to advise you that the Moab District Office, Bureau of Land Management and the Manti-LaSal National Forest are proceeding to review and supplement portions of the San Rafael and Wattis management framework plans and the Ferron-Price land management plan to make certain the plans reflect as completely as possible existing statutory, requirements and policies and to begin to carry out the requirements of the Federal lands review mandated by Section (522)(C) of the Surface Mining Control and Reclamation Act (SMCRA). These standards are discussed in a draft environmental impact statement describing the Secretary of Interior's proposed coal program and alternatives which was released for review on December 15, 1978, 43 F.R. 58776, and comments on revisions in the criteria through that process as well as through participation in the planning process are welcome.

Background and standards for this planning review and supplement preparation procedures are contained in FEDERAL REGISTER Notice 43 F.R. 57662, of December 8, 1978.

Date: January 8, 1979.

PAUL L. HOWARD,
State Director.

[FR Doc. 79-1420 Filed 1-15-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 5, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by January 26, 1979.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALABAMA

Montgomery County

Montgomery, *Steiner-Lehman and Teague Hardware Buildings*, 184 and 172 Commerce St.

ALASKA

Seward Division

Moose Pass vicinity, *Lauritsen Cabin*, N of Moose Pass off AK 1

COLORADO

Boulder County

Boulder, *Carnegie Library*, 1125 Pine St.
Boulder, *Woodward-Baird House*, 1733 Canyon Blvd.

El Paso County

Fountain, *Old Livery Stable*, 217 W. Missouri

Logan County

Sterling, *Logan County Courthouse*, Main St.

Otero County

La Junta, *Hart, Wilson A., House*, 802 Raton Ave.

FLORIDA

Alachua County

Gainesville, *Anderson Hall*, W. University Ave.
Gainesville, *Bryan Hall*, W. University Ave. and 13th St.

Gainesville, *Flint Hall*, W. University Ave.

Gainesville, *Floyd Hall*, University of Florida Campus

Gainesville, *Library East*, Murphree Way

Gainesville, *Newell Hall*, Stadium Rd.

Gainesville, *Peabody Hall*, University of Florida campus

Gainesville, *Women's Gymnasium*, East-West Rd.

GEORGIA

Bryan County

Richmond Hill vicinity, *Kilkenny*, E of Richmond Hill on Kilkenny Rd.

Catoosa County

Fort Oglethorpe, *Fort Oglethorpe Historic District*, U.S. 27 (also in Walker County)

Jasper County

Monticello, *Hitchcock-Roberts House*, N. Warren St.

GUAM

Mangilao, *Taogam Archeological District*, off GU 10
Naval Station, *Cable Station Ruin*, W of Marine Dr.
Santa Rita, *Pan American Hotel Ruin*, U.S. Naval Station

INDIANA

Howard County

Kokomo vicinity, *Smith, Henry W., House*, 5 mi. (8 km) W of Kokomo

Vermillion County

Clinton vicinity, *Salem Methodist Episcopal Church*, N of Clinton on IN 63

Warrick County

Boonville, *Old Warrick County Jail*, 124 E. Main St.

Whitley County

Columbia City, *Whitley County Courthouse*, Van Buren and Main Sts.

IOWA

Cass County

Griswold, *Griswold National Bank*, Main and Cass Sts.

Linn County

Marion, *Braska House*, 889 2nd Ave.

KENTUCKY

Christian County

Christian County Multiple Resource Area, various locations in county

LOUISIANA

Livingston Parish

Springfield vicinity, *Carter Plantation*, SW of Springfield on SR 1038

MARYLAND

Montgomery County

Poolesville vicinity, *Darnall Place*, E Poolesville at 17615 White's Ferry Rd.

MASSACHUSETTS

Barnstable County

Barnstable, *Barnstable Fair Hall*, 3512 Main St.

Plymouth County

Plymouth vicinity, *Parting Ways Archeological District*, W of Plymouth

MONTANA

Yellowstone County

Billings vicinity, *Boothill Cemetery*, N of Billings

NEBRASKA

Greeley County

Scotia, *Scotia Chalk Building*, Off NE 22

Webster County

Bladen vicinity, *Pavelka Farmstead*, SE of Bladen

NEVADA

Douglas County

Gardnerville, *Carson Valley Hospital*, 1466 U.S. 395

NEW JERSEY

Atlantic County

Estell Manor, *Head of the River Church, NJ 49*

Monmouth County

Leonardo, *Bowne House*, Leonard Ave.

Salem County

Woodstown, *Shinn, Joseph, House*, 68 N. Main St.

NEW YORK

Dutchess County

Beacon, *Eustatia*, 12 Monell Pl.
Poughkeepsie, *Poughkeepsie Railroad Bridge*, spans Hudson River (also in Ulster County)

SUFFOLK COUNTY

Montauk vicinity, *H.M.S. Culloden Shipwreck Site*, N of Montauk

NORTH CAROLINA

Alamance County

Glencoe, *Glencoe Mill Village Historic District*, off NC 62 at Haw River

Buncombe County

Asheville, *Asheville Historic and Architectural Multiple Resource Area*. This area includes: *Downtown Asheville Historic district*, roughly bounded by I 240, Valley St., Hilliard Ave., and Broad Ave.; *Asheville Transfer and Storage Company Building*, 192-194 Coxe Ave.; *B & B Motor Company Building*, 84-94 Coxe Ave.; *Conabeer Chrysler Building*, 162-164 Coxe Ave.; *E.D. Latta Nurses' Residence (interchange Center)*, 159 Woodfin St.; *George A. Mears House*, 137 Biltmore Ave.; *Richbourg Motors Building*, 50 Coxe Ave.; *Sawyer Motor Company Building*, 100 Coxe Ave.; *Schoenberger Hall*, 60 Ravenscroft Dr.; 130-132 Biltmore Ave.; 134-136½ Biltmore Ave.; and 140 Biltmore Ave.

OKLAHOMA

Beckham County

Elk City, *Broadway Street Historic District*, W. Broadway between Randall and Jefferson Sts.

SOUTH CAROLINA

Greenville County

Greenville, *Reedy River Industrial District*, Reedy River between River St. and Camperdown Way

VIRGINIA

Botetourt County

Eagle Rock vicinity, *Roaring Run Furnace*, NW of Eagle Rock
Fincastle vicinity, *Catawba Furnace*, W of Fincastle

WASHINGTON

Snohomish County

Everett, *Community Center and War Memorial Building*, 1611 Everett Ave.

[FR Doc. 79-1074 Filed 1-15-79; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT DES 79-3]

CRUDE OIL TRANSPORTATION SYSTEM AS PROPOSED BY THE NORTHERN TIER PIPELINE CO.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the crude oil transportation system as proposed by the Northern Tier Pipeline Company and invites written comments within 60 days of this notice.

The proposal would involve the construction and operation of a crude oil transportation system from Port Angeles, Washington, to Clearbrook, Minnesota. The system would consist of an oil tanker unloading and storage facility at Port Angeles and a 1,557-mile buried pipeline crossing the States of Washington, Idaho, Mon-

tana, North Dakota, and connecting to existing pipeline systems in Clearbrook, Minnestoa.

Copies of the draft environmental statement are available for inspection at the following Bureau of Land Management Office locations:

Washington Office of Public Affairs, 18th and C Streets, N.W., Washington, D.C. 20240.
Oregon State Office, 729 N.E. Oregon Street, Portland, OR 97208.
Spokane District Office, West 920 Riverside, Spokane, WA 99201.
Montana State Office, 222 N. 32nd Street P.O. Box 30157, Billings, MT 59107.
Butte District Office, 220 N. Alaska, P.O. Box 308, Butte, MT 59701.
Lewistown District Office, Bank Electric Building, Drawer 1160, Lewistown, MT 59457.
Idaho State Office, Room 398, Federal Building, 550 W. Fort Street, Box 042, Boise, ID 83724.
Coeur d'Alene District Office, 1808 N. Third Street, Coeur d'Alene, ID 83814.
Miles City District Office, West of Miles City, P.O. Box 940, Miles City, MT 59301.
Dickinson District Office, Pulver Hall, P.O. Box 1229, Dickinson, ND 58601.

Copies can also be found at many local, State, and university libraries in those States that would be crossed by the pipeline. For information concerning the location of the draft environmental statement nearest you, call toll free (800) 547-5532. A limited number of single copies are also available. Requests for a copy should be directed to:

Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, OR 97208.

Written comments pertaining to the adequacy of the draft environmental statement should be sent to the Oregon State Director at the address noted above.

A series of formal public hearings at which oral and written comments can be presented will be held. The specific time and place of the hearings will be announced at a later date.

Dated: January 11, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 79-1468 Filed 1-15-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19020, a notice is hereby given that on January 4, 1979, a proposed consent decree in *State of Alabama, et al.* v. *Tennessee Valley Authority*, was lodged with the United States District for the Northern District of Alabama. The United States intervened as a party-plaintiff in this case seeking compliance with the Clean Air Act. The proposed decree requires the Tennessee Valley Authority to install pollution control equipment or switch to coal with a lower sulfur content at two power plants in Alabama in order to comply with the Clean Air Act.

The Department of Justice will receive for 30 days from the date of publication of this notice (February 15, 1979) written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *State of Alabama, et al.* v. *Tennessee Valley Authority*, D.J. Ref. 90-5-2-3-840.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Alabama, U.S. Courthouse, Birmingham, Alabama; the Clerk of the District Court, Northern District of Alabama, U.S. Courthouse, Birmingham, Alabama; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-1491 Filed 1-15-79; 8:45 am]

[4410-01-M]

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on January 4, 1979, a proposed consent decree in *Tennessee Thoracic Society, et al.* v. *Tennessee Valley Authority*, was lodged with the United States District Court for the Middle District of Tennessee. The United States intervened as a party-plaintiff in this case seeking compliance with the Clean Air Act. The proposed decree requires the Tennessee Valley Authority to install pollution control equipment or switch to coal with a lower sulfur content at eight power plants in Tennessee and Kentucky in order to comply with the Clean Air Act.

The Department of Justice will receive for 30 days from the date of publication of this notice (February 15, 1979) written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *Tennessee Thoracic Society, et al.* v. *Tennessee Valley Authority*, D.J. Ref. 90-5-2-3-835.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Tennessee, U.S. Courthouse, Nashville, Tennessee; the Clerk of the District Court, Middle District of Tennessee, U.S. Courthouse, Nashville, Tennessee; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-1492 Filed 1-15-79; 8:45 am]

[4410-01-M]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION; WESTERN FIFTH CIRCUIT PANEL

Meeting

The Western Fifth Circuit panel of the United States Circuit Judge Nominating Commission will meet:

1. At the United States Court of Appeals, the Eleventh Floor of the Federal Building, 515 Rush Street, Houston, Texas on February 6, 7, 8, 1979, at 9:00 a.m. for the purpose of interviewing applicants from Texas;

2. At the Federal District Courthouse, 707 Florida Avenue, Baton Rouge, Louisiana, February 13, 14, 15, 1979, at 9:00 a.m. to interview applicants from Louisiana; and

3. At the United States Court of Appeals, the Eleventh Floor of the Federal Building, 515 Rush Street, Houston, Texas on February 21, 22, 1979, at 9:00 a.m. to make final selections.

These meetings will be closed to the public pursuant to Pub. L. 92-463 Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 10, 1979.

[FR Doc. 79-1469 Filed 1-15-79; 8:45 am]

[4510-27-M]

DEPARTMENT OF LABOR

Employment and Training Administration

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS (YCCIP)

Reallocation of Balance of State Alaska Allocation

In accordance with 29 CFR 97.607 and 29 CFR 98.11(d) and pursuant to the Comprehensive Employment and Training Act of 1973, as amended, on November 14, 1978, the Employment and Training Administration with the concurrence of the Governor of Alaska, reallocated $263,816 of the Balance of State Alaska allocation under the Youth Community Conservation and Improvement Projects (YCCIP).

This reallocation was made to the following CETA prime sponsor:

Municipality of Anchorage, Alaska: $263,816.

This reallocation was made in order to better utilize these funds within the current period for employment of unemployed and out-of-school youth with the severest problems in finding employment.

Any questions or comments regarding this reallocation should be addressed to Mr. Robert Taggart, Department of Labor, Office of Youth Programs, 601 D Street NW. Room 6000, Washington, D.C. 20213.

Dated: November 29, 1978.

ROBERT TAGGART,
Administrator,
Office of Youth Programs.

[FR Doc. 79-1359 Filed 1-15-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-6]

CONSOLIDATED COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (42 FR 58453) of Consolidation Coal Co. to modify the application of 30 CFR 75.1700 to its McElroy Mine located in Marshall County, W. Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the followings findings:

A meeting was held at McElroy mine on April 18, 1978. In attendance were representatives of the Mine Safety Committee of UMWA Local No. 1638, Consolidation Coal Company, the West Virginia State Department of Mines, and Mine Safety and Health Administration. The procedure for plugging the wells and the Petition for Modification was discussed. No objections of the proposed plugging and mining through of the wells were raised by those in attendance.

MSHA investigators recommended that the Petition for Modification be granted if the following are adopted:

1. The plugging operation and mining through the well shall be monitored by a MSHA representative. This will require that McElroy mine management notify MSHA when such representatives are intended. MSHA will use the expert guidance of the Petroleum and Natural Gas and In Situ Technology Group of the Morgantown Energy Research Center, ERDA, who were the prime group in developing the technique.

2. Mining in the vicinity of 300 feet of a plugged well will be done in accordance with mining projections filed with, and approved by, the State of West Virginia Department of Mines and the District Manager.

3. A copy of the Petition decision and approved map shall be maintained at the mine office and shall be available to employees of the mine.

4. Consolidation Coal Company, McElroy mine, shall agree to consult, collaborate, and cooperate in plugging, penetrating, and mining through each well so that the technical expertise of MSHA and ERDA will be available for each well during the entire project.

5. MSHA may order the operator, in writing, to suspend, delay, or interrupt all or any part of a mining through project, for cause. This action may be taken upon the authorized representative's determination that a hazardous condition has been encountered. Such conditions could relate to the failure of the well plug to seal, as evidenced by detection of tracer gas (SF_6) in mine air samples, or failure to adequately plug the well as specified.

6. The District Manager or Subdistrict Manager, MSHA, will conduct a conference just prior to, or within a reasonable time prior to, the mining-through of any plugged well, to review the specific plan for mining-through such well, and determine whether or not such plan is appropriate. Representatives of the operator, UMWA, and the State Department of Mines will be informed, within a reasonable time prior to the conference, and will be given an opportunity to attend and participate.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary for Labor, ordered that the petition be granted, conditioned upon compliance with the recommendations stated above.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-1362 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-77-17]

EASTERN ASSOCIATED COAL CORP.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (41 FR 54247) of Eastern Associated Coal Corp. to modify the application of 30 CFR 75.1105 to its Keystone No. 2 Mine located in Wyoming County, W. Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. Due to the enormous size of this mine, the massive roof falls in the adjacent entries along the 3 West 5 North entries, and the water accumulations that are also present in these entries, MSHA investigators concluded that the operator cannot at this time comply with the provisions of Section 75.1105 of Part 75.

2. The fire protection devices provided appeared to be adequate. The pump installation that was checked consisted of a twenty-pound dry-type chemical fire suppression unit sold by National Mine Corporation. The unit is activated by two heat sensors (135 degrees F) located directly above the electric pump motor and electric motor starter. When activated the fire suppression unit will discharge the twenty-pound unit onto the pump motor and motor starter and at the same time, the incoming power will be cut off of the pump starter by means of an additional contactor located outside the fireproof structure housing the water pump.

3. The company also added two heat sensors (135 degrees F) linked to a cable directly above the pumping unit

in a manner so as to close the door openings in case of a fire. At the same time, a switch located on one of the doors will set off an alarm light that will be seen by anyone traveling the main line track entering or leaving the mine to warn them that the system has been activated.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon the proper installation and maintenance of the system described in the petition and as observed by MSHA's investigators.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1361 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-65-M]

KENNECOTT COPPER CORP.

Petition for Modification of Application of Mandatory Safety Standard

Kennecott Copper Corporation, P.O. Box 11299, Salt Lake City, Utah 84111 has filed a petition to modify the application of 30 CFR 55.9-87 (automatic reverse signal alarms) to its Bingham Canyon Mine in Salt Lake County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) The petitioner asks for an amendment of condition 2(A) of Variance No. 290-S granted to the petitioner on December 14, 1977, by the Industrial Commission of the State of Utah with MSHA's concurrence.

(2) This condition states in part that a haulage truck driver shall wait for the shovel operator to give the signal to spot before backing the truck into the loading position on the blind side. The current signal is the shovel dipper held in an elevated position.

(3) As an alternative to the signal, the petitioner proposes to place marker flags in the loading area to guide trucks backing into the loading position. If for any reason the flags are not completely visible to the haulage truck driver, the driver will wait for the signal from the shovel operator (elevated dipper) before backing into the loading position.

(4) The petitioner claims that this procedure has definite safety advantages over the variance procedure for these reasons:

(a) The waiting period, necessary when using the dipper as a guide, leaves the truck exposed near the traffic pattern for the trucks preparing to back into position on the visible side and adds to the congestion in the turning area. This is eliminated with the proposed procedure.

(b) There is no delay between the truck's clockwise turn and backing into the loading position. The driver visually inspects the area while making the clockwise turn and immediately backs into position, using the flags as guides. The visual inspection of an area immediately prior to backing is the most effective method of safely backing and preventing personnel or equipment from entering the area to be backed into without the knowledge of the truck driver.

(5) To further protect personnel, the petitioner will install two red warning lights on the rear of the shovel. Placing the shovel in the proper mode will activiate the red lights. The lights will indicate to the haulage truck driver that backing into the blind side loading position is prohibited.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments by February 15, 1979. Comments must be filed with the office of Standards, Regulations and Variances, Mine Safety and health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 8, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1363 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. 78-55-M]

UNION CARBIDE CORP.

Petition for Modification of Application of Mandatory Standard

The Union Carbide Corporation, P.O. Box 1029, Grand Junction, Colorado 81501, has filed a petition to modify the application of 30 CFR 57.5-50 (noise levels) to its following mines: Coloradium, Donald L, September Morn, Anna May, Eula Belk, Fawn Springs #9, Nil, Ura, Long Park #15, Blackburn, King Solomon, Breezy, Martha Belle, and Rimrock Blues #2 in Montrose County, Co; New Verde Mining, Rajah 68, Rajah 30, Rajah 49-Zee Lease, Pack Rat, Thornton gap, Lost Dutchman and Atlas-Bonanza in Mesa County, Co; Deremo-Snyder, Burro and Sunday in San Miguel County, Co; Wilson-Silverbell and La Sal/Snowball in San Juan County, Ut; Black Rock Mine in Mono County, Ca; Pine Creek Mine in Inyo County, Ca; and Emerson Mine in Lincoln County, Nv.

The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) The petitioner has tested various engineering techniques recommended by MSHA. However, these techniques have not produced satisfactory performance on either noise attenuation or drilling function of the drills.

(2) The administrative technique recommended by MSHA of rotating miners in drilling operations is not feasible, given the distances and complexities experienced in the petitioner's mines.

(3) The petitioner states that the methods of noise control used at its mines, in particular ear protection and audiometric testing, assure its employees no less protection than that provided by the standard.

Persons interested in this petition may furnish written comments by February 15, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 6, 1979.

ROBERT B. LAGATHER,
Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-1364 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-77-252]

YOUGHIOGHENY & OHIO COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (42 FR 45044) of Youghiogheny & Ohio Coal Co. to modify the application of 30 CFR 75.1100-2(b) to its Nelms No. 2 Mine located in Harrison County, Ohio, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of proteciton given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. MSHA conducted an investigation at the Nelms No. 2 Mine on October 21, 1977, to ensure that the proposed firefighting system was capable of delivering 50 gallons of water per minute at 50 p.s.i., as required by 30 CFR 75.1100-1. A 2-inch steel pipeline was installed the entire length of and parallel to both the slope and transfer conveyor belts. Outlets were installed at 300-foot intervals with adequate lengths of firehose placed at strategic locations. Heat detecting sensors were placed along conveyor belts which will automatically activate an electric solenoid valve and charge the waterline in the event of a fire or excessive heat. A bypass system with a manual valve was included so that the waterline can be charged during a power failure.

2. Tests were made and the system was found to be capable of delivering water in excess of 50 p.s.i. as required by 30 CFR 75.1100-1.

3. Deluge-type water sprays, automatically actuated by a rise in temperature, have been installed on the transfer belt drive and are in compliance with 30 CFR 75.1100.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon the terms and conditions of the findings.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1360 Filed 1-15-79; 8:45 am]

[4510-29-M]

Office of Pension and Welfare Benefit Programs

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Proposed Exemption for Certain Transactions Involving Restated Coburn Optical Industries, Inc., Profit Sharing Plan and Trust (Application No. D-492)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of certain parcels of real property by the Restated Coburn Optical Industries, Inc. Profit Sharing Plan and Trust (the Plan) to O. W. Coburn and/or Superior Investments, Inc. (Superior), a corporation ninety percent of the outstanding stock of which is owned by O. W. Coburn, both of which are parties in interest with respect to the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 2, 1979.

ADDRESSES: All writen comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Application No. D-492. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington D.C.

FOR FURTHER INFORMATION CONTACT:

William J. Flanagan, of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-7931. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975 (c)(1)(A) and (D) of the Code. The proposed exemption was requested in an application filed by the First National Bank and Trust Company of Muskogee, Oklahoma (the Bank), Jim Liquidating Corp. (the Employer), and O. W. Coburn, who is a director and majority shareholder of Employer and also a participant in the plan, pursuant to section 408(a) of the Act and section 4975(c) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

On July 26, 1975, the Employer's Board of Directors voted to terminate the Plan and to liquidate and distribute the assets of the Plan, a defined contribution plan, to participants based on account balances as of June 30, 1975. The trustees of the Plan—O. W. Coburn, John C. Coburn, and James M. Coburn—resigned and the Bank was appointed trustee as of June 30, 1975. The Employer's Board of Directors instructed the Bank to sell all of the Plan's non-cash assets in a manner which would maximize the cash available for distribution.

Upon termination of the Plan, ninety-six percent of the participants elected a cash distribution of their account balances. To date, these participants have received approximately ninety-five percent of the balances shown in their accounts as of June 30, 1975. The remaining four percent of the Plan participants chose to have their balances paid in the form of nontransferrable annuities. It is noted that the accounts in the names of O. W. Coburn and his brother, John C. Coburn, represent more than two-thirds of the total balance due those participants who chose annuities. To date, the participants who chose annuities have received no distribution. The applicants represent that this proposed exemption is necessary to enable the Bank to sell the remaining Plan assets and to make a final distribution to Plan participants.

The remaining unsold Plan assets are two real estate holdings: (1) Twenty-one lots in the Indian Drive Subdivision Addition to Muskogee, Oklahoma; and (2) a Tastee Freeze located in Muskogee, Oklahoma.[1] The book value of these assets was determined by the City of Muskogee as of June 30, 1975, and there is no evidence of any new municipal reappraisals at this time. The book values of these assets are approximately $131,000 for the twenty-one subdivision lots, and $42,061 for the Tastee Freeze. Upon

[1] The application also requested exemptions for the sale of ten other subdivision lots, as well as a car wash, and a vacant lot. However, since the time the application was filed, unrelated third parties have purchased these assets, and they are not considered in this exemption.

becoming Plan trustee, the Bank commissioned two independent appraisals of the properties held by the Plan. Both appraisals valued the Subdivision lots at a price below their book value, while the Tastee Freeze was appraised in excess of its book value. The Bank offered the Tastee Freeze for sale at a price ten percent above its 1975 high appraised value. The Subdivision lots were offered for sale at a lot by lot price of ten percent above book vlue, or at a bulk price of ten percent above the 1975 high appraised value. While these prices were in effect, the Bank sold seven Subdivision lots, all at prices below asking price, but substantially equal to book value.

In June, 1977, the Bank commissioned two new appraisals of the unsold property. The high 1977 appraisal for the Tastee Freeze was $60,000, the same as the high 1975 appraisal. To date, the best offer received by the Bank for the Tastee Freeze is $58,000 offered by O. W. Coburn, an amount equal to the 1975 low appraisal and $16,000 higher than book value. The high 1977 appraised value of the remaining Subdivision lots is $135,000, which is $4,000 more than book value. O. W. Coburn and/or Superior have offered to purchase the remaining subdivision lots at a price equal to the high 1977 appraised value.[2] The application and supplementary information submitted by applicants indicate that the prospective purchasers intend to hold the properties for sale, investment or charitable donation.

The applicants seek an exemption for the sale of these properties to O. W. Coburn and/or Superior in order to facilitate the final distribution of Plan assets. O. W. Coburn is a party in interest with respect to the Plan as defined by section 3(14)(E) and (H) of the Act, and a disqualified person as defined in section 4975(e)(2)(E) and (H) of the Code, by virtue of being an employee, officer, director and majority shareholder of the Employer. Superior is a party in interest as defined by section 3(14)(G) of the Act, and a disqualified person as defined in section 4975(e)(2)(G) of the Code, since it is a corporation fifty percent or more of which is owned by a more than fifty percent shareholder of the Employer. Because Coburn and Superior are parties in interest and disqualified persons, the proposed sales would constitute prohibited transactions pursuant to section 406(a)(1)(A) and (D) of the Act and section 4975(c)(1)(A) and (D) of the Code. In addition, if Coburn has the power to appoint and remove the Plan trustee, these sales may be prohibited transactions under section 406(b)(1) and (b)(2) of the Act and section 4975(c)(1)(E) of the Code.

The applicants represent that the requested exemption should be granted for several reasons. The applicants state that it is administratively feasible to grant the requested exemption because the sales would occur only once, thereby requiring only minimal supervision. The applicants also state that these sales are necessary in order to liquidate Plan assets and terminate the Plan. The proposed sales would also be in the best interests of the Plan and its participants and beneficiaries because these transactions would enable the Bank to receive the highest prices offered for the remaining assets since July 1975. In addition, the applicants argue that the rights of Plan participants and beneficiaries are protected by the independent appraisals of these assets and by the presence of an independent trustee which has attempted to sell the properties to unrelated parties.

Notice to Interested Parties

All Plan participants and beneficiaries will be notified by letter containing a copy of the notice of pendency of the proposed exemption as published in the Federal Register, and advising these persons of their rights to comment and/or to request a hearing within the period of time specified above. Such notification will be given no later than 5 days after the notice of pendency is published in the Federal Register. In addition, copies of this notification will be posted for a period of thirty days in conspicuous locations in all buildings where Plan participants and beneficiaries are currently employed by the successor employer.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a)(1)(B), (C), and (E), 406(b)(3), and 407 of the Act, and section 4975(c)(1)(B), (C) and (F) of the Code;

(3) Before any exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (D) and (E) of the Code shall not apply to the sale for cash of the remaining Indian Drive Subdivision lots at a price not less than the greater of either their high 1977 appraised value, or their fair market value at the time of sale, nor to the sale for cash of the Tastee Freeze at a price not less than the greater of either $58,500, or the fair market value of the property from the

[2] In view of the length of time which has passed since these appraisals were made, the proposed exemption provides that Coburn and/or Superior must pay the higher of either the purchase prices currently offered or the fair market values of the properties at the time of sale. Furthermore although the application does not specify that the sale will be for cash, the proposed exemption is conditioned on the sale being for cash.

Plan to either O. W. Coburn or Superior Investments, Inc. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of January 1979.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-1479 Filed 1-11-79; 2:44 pm]

[4510-28-M]

Office of the Secretary

[TA-W-3473]

ALLEGHENY-LUDLUM STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3473: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel sheet and plate, high speed and tool steel at the Brackenridge, Pennsylvania plant of Allegheny-Ludlum Steel Corporation. The investigation revealed that the plant primarily produces stainless steel sheet and plate.

The Brackenridge plant was previously certified eligible for adjustment assistance on May 27, 1976; that certification expired on May 27, 1978 (see TA-W-755).

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allegheny Ludlum Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at the Brackenridge plant remained relatively stable in the first nine months of 1978 compared to the first nine months of 1977. Average quarterly employment increased from the first to the second quarter and from the second to the third quarter in 1978. The average weekly hours worked per employee also increased in the first three quarters of 1978 compared to the like period in 1977. There is no immediate threat of separations at this plant.

CONCLUSION

After careful review, I determine that all workers of the Brackenridge, Pennsylvania plant of Allegheny-Ludlum Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1376 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4274]

APECO CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4274: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 18, 1978 which was filed on behalf of workers and former workers producing toner for photocopy equipment at the Melrose Park, Illinois plant of the Apeco Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Apeco Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of toners increased from 6.9 million pounds in 1976 to 7.6 million pounds in 1977, and increased from 6.0 million pounds in the January-September period of 1977 to 6.1 million pounds in the like period in 1978. The ratio of imports to domestic production increased from 10.2 percent in 1976 to 11.1 percent in 1977.

Company imports of toner by Apeco increased in value absolutely and relative to total company sales in the January-October period of 1978 compared to the like period in 1977. The Melrose Park, Illinois plant was closed permanently on December 1, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with toner produced at the Melrose Park, Illinois plant of the Apeco Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Melrose Park, Illinois plant of the Apeco Corporation who became totally or partially separated from employment on or after November 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1377 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-3987 and 3987A]

BOBBIE BROOKS, INC.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3987: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 17, 1978

which was filed on behalf of workers and former workers producing knitted fabrics and sweaters and Bobbie Brooks, Incorporated, Colebrook, Mills Division, Hialeah, Florida. The investigation revealed that this subdivision of Colebrook Mills included a full fashion knitting plant and two Bobbie Brooks selling companies (Colebrook Men's Division and Coronet Knitwear) in Hialeah, Florida and also a third Bobbie Brooks selling company, the M&D Simon Division, located in Morrow, Georgia. The full fashion knitting plant produced men's knit shirts and knit sweaters and women's sweaters. The Colebrook Men's Division and the M&D Simon Division sold men's knit shirts and knit sweaters produced at the Colebrook Mills full fashion knitting plant. Coronet Knitwear sold women's sweaters which were produced at the Colebrook Mills full fashion knitting plant (TA-W-3987-A).

The Notice of Investigation was published in the Federal Register on August 1, 1978 (43 FR 33840-41). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bobbie Brooks, Incorporated, its customers, the National Cotton Council of America, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers of the full fashion knitting plant, the M&D Simon Division, and the Colebrook Men's Division, it is concluded that, all of the requirements have been met.

Imports of men's and boys' sweaters increased from 26.5 million units in 1976 to 28.3 million units in 1977 and from 11.1 million units in the period January through June 1977 to 16.5 million units in the same period in 1978.

Imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased from 74 million units in 1976 to 75.2 million units in 1977 and from 37.3 million units in the period January through June 1977 to 53.9 million units in the same period in 1978.

A Department survey revealed that customers who purchased products manufactured at the full fashion plant of Colebrook Mills increased purchases of imported men's knit sweaters and knit shirts from 1976 to 1977. These customers reduced their purchases from the subject firm during the same period of comparison.

With respect to workers of Coronet Knitwear, a division of Bobbie Brooks, Incorporated, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey revealed that retail customers of Coronet Knitwear, a division of Bobbie Brooks, Incorporated indicated that they did not purchase imported women's sweaters, skirts and pants in 1976 or 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knit shirts and knit sweaters produced at the Colebrook Mills Division of Bobbie Brooks, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Colebrook Mills full fashion knitting plant, Hialeah, Florida, the M&D Simon division of Bobbie Brooks, Incorporated, Morrow, Georgia and the Colebrook Mens Division of Bobbie Brooks, Incorporated, Hialeah, Florida who became totally or partially separated from employment on or after July 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of Coronet Knitwear a division of Bobbie Brooks, Incorporated, Morrow, Georgia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1378 Filed 1-15-79; 8:45 am]

[4510-28]

[TA-W-3988]

BOBBIE BROOKS, INC.

Negative Detemination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3988: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 17, 1978 which was filed on behalf of workers and former workers producing knitted fabrics at Bobbie Brooks, Incorporated, Colebrook Mills Division, Hialeah, Florida. The investigation revealed that this subdivision of Colebrook Mills is located in West Hialeah, Florida and includes one cut-and-sew plant (Texas Knitting Mills, now called Perception Sewing Plant) and a selling company for women's apparel (Perception-Directions Division). Perception Sewing Plant manufactures women's blouses, skirts, pants, and blazers which are sold by the Perception-Directions Division.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840-41). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bobbie Brooks, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of women's blouses, skirts, pants, and blazers by Texas Knitting Mills, now called Perception Sewing Plant, increased, in quantity, in the fourth quarter of 1977 compared with the same period of 1976 and in the first six months of 1978 compared with the same period in 1977.

Sales of women's blouses, skirts, pants and blazers by the Perception-Directions Division of Bobbie Brooks, Incorporated increased, in value, in the fourth quarter of 1977 compared with the same period of 1976 and in the first four months of 1978 compared with the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Texas Knitting Mills, now called Perception Sewing Plant, and the Perception-Directions Division of Bobbie Brooks, Incorporat-

ed, West Hialeah, Florida, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1379 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4124]

CLEARDON MANUFACTURING, CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4142: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1978 in response to a worker petition received on August 28, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing heavy and light weight outerwear jackets for men at the Coalport Pennsylvania plant of the Cleardon Manufacturing Company, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Cleardon Manufacturing Company, Incorporated, its parent company, McGregor-Doniger, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative deterination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' non-tailored outer jackets increased from 15.7 million units 1976 to 19.5 million units in 1977 and from 9.5 million units in the first half of 1977 to 11.8 million units in the first half of 1978. The import to domestic production ratio reached 30.8 percent in 1977.

A department survey indicated that at least two customers, one of which was a major customer, of McGregor-Doniger, Inc., of which Cleardon Manufacturing Company is a wholly-owned subsidiary, increased purchases of imported men's outerwear jackets while decreasing purchases from McGregor in the period, 1976 through the first three quarters of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's outerwear jackets produced at the Coalport, Pennsylvania, plant of the Clarendon Manufacturing Company, Inc., contributed importantly to the decline in sales and to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Coalport, Pennsylvania, plant of the Clarendon Manufacturing Company, Inc., who became totally or partially separated from employment on or after August 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1380 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4351]

D. SEIDMANN'S SONS, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4351: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 6, 1978 in response to a worker petition received on November 2, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit scarves and knit headwear at D. Seidmann's Sons, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that D. Seidmann's Sons also produces socks, bibs and sweaters; however, knit scarves and knit headwear are the primary products produced.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53851). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of D. Seidmann's Sons, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's, boys', women's, and juniors' (excluding infants) knit headwear increased absolutely in each year from 1975 through 1977 and increased in the first three quarters of 1978 compared to the same period of 1977.

U.S. imports of mufflers, scarves and shawls increased absolutely in the first three quarters of 1978 compared to the first three quarters of 1977.

Results of a Departmental survey conducted with customers of D. Seidmann's Sons, Incorporated indicated that several customers decreased purchases of knit scarves and headwear from D. Seidmann's Sons and increased purchases from foreign sources during the first 11 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with knitted scarves and headwear produced at D. Seidmann's Sons, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of D. Seidmann's Sons, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after August 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1381 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4318]

DESOTO, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department

of Labor herein presents the results of TA-W-4318: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 30, 1978 which was filed by the United Paperworkers International Union on behalf of workers and former workers producting wallcoverings, vinyl, plastic, paper, etc. at DeSoto, Inc., United Wallcovering Division, Chicago, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of DeSoto, Inc., its customers, the Wallcoverings Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of wallpaper increased from 23,073 thousand pounds in 1976 to 25,573 thousand pounds in 1977. Imports increased from 20,068 thousand pounds in the first nine months of 1977 to 23,820 thousand pounds in the first nine months of 1978. Combined imports of wallpaper and vinyl fabric wallcovering increased from $34,500,000 in 1976 to $43,600,000 in 1977. Imports increased from $33,700,000 in the first nine months of 1977 to $44,300,000 in the first nine months of 1978.

A survey was conducted of customers who decreased purchases of wallpaper from the United Wallcovering Division of DeSoto, Inc. from 1976 to 1977. The survey revealed that customers increased their purchases of imported wallpaper from 1976 to 1977. The survey further indicated that these customers continued to increase their purchases of imported wallpaper in 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with wallpaper produced at DeSoto, Inc., United Wallcovering Division, Chicago, Illinois contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of DeSoto, Inc., United Wallcovering Division, Chicago, Illinois who became totally or partially separated from employment on or after October 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1382 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-3749]

FEMIA, FASHIONS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3749: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 18, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's blouses, slacks and skirts of Femia Fashions, Incorporated, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-34). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Femia Fashions, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Femia Fashions is a contractor for women's slacks, skirts and blouses. Production, in adjusted value, increased from 1976 to 1977.

The manufacturer for which Femia Fashions performs contract work decreased purchases of imported slacks, skirts and blouses in the first eight months of 1978 compared with the same period of 1977. This manufacturer did not use foreign contractors. Sales of slacks, blouses and skirts by the manufacturer increased in the first eight months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Femia Fashions, Brooklyn, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 1383 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4249]

FERMON TANNING CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4249: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 10, 1978 in response to a worker petition received on October 6, 1978 which was filed on behalf of workers and former workers producing suede cowhide splits at Fermon Tanning Corporation, Peabody, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fermon Tanning Corporation, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles pro-

duced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Fermon Tanning prepared cowhide splits for its leather department and for other manufacturers on a contract basis. The Department conducted a survey of the manufacturers for which Fermon Tanning did contract work. The survey indicated that the manufacturers which increased purchases of imported cowhide splits from 1977 to 1978 also increased purchases from Fermon Tanning.

The petition alleges that exports of cowhides to Japan have led to the unavailability of needed raw material and, by implication, to worker separations at the plant. The Trade Act tests for certification, however, are solely based on increased imports of articles like or directly competitive with those produced by the petitioning workers.

CONCLUSION

After careful review, I determine that all workers of Fermon Tanning Corporation, Peabody, Massachusetts, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1384 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-1637]

GREAT WESTERN SUGAR CO.

Revised Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on August 16, 1977, applicable to all workers at the Johnstown Molasses Factory, Johnstown, Colorado, of the Great Western Sugar Company, Denver, Colorado. The Notice of Certification was published in the FEDERAL REGISTER on August 26, 1977, (42 FR 43145).

At the request of a former worker of Great Western's terminal in St. Louis, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that some eighty percent of the sugar handled by the St. Louis, Missouri, terminal of the Great Western Sugar Company originated in the Johnstown, Colorado, plant of Great Western Sugar Company. Under the circumstances, workers at the St. Louis terminal may be considered part of the integrated production process at Johnstown and for purposes of the Act as belonging to the same appropriate subdivision as the Johnstown workers.

The intent of the certification is to cover all workers of Great Western Sugar Company who were affected by the decline in production of sugar at the Johnstown, Colorado, plant related to import competition. The certification, therefore, is revised to include all workers at the St. Louis, Missouri, terminal of the Great Western Sugar Company, Denver, Colorado.

The revised certification applicable to TA-W-1637 is hereby issued as follows:

All workers at the Johnstown Molasses Factory, Johnstown, Colorado, and the St. Louis, Missouri, terminal of the Great Western Sugar Company, Denver, Colorado, who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1385 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4424]

HUDSON PEARL COMPANY, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4424: investigation regarding certification of eligibility to apply for worker asjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 14, 1978 which was filed on behalf of workers and former workers producing pearl coated necklaces, beads and balls for earrings, and knotted necklaces at Hudson Pearl Company, Incorporated, Union City, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Hudson Pearl Company, Incorporated its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of costume jewelry increased from 60.7 million dollars in 1975 to 83.3 million dollars in 1976, and increased to 92.0 million dollars in 1977. Imports increased from 44.1 million dollars in the first half of 1977 to 49.1 million dollars in the first half of 1978.

The manufacturer for whom Hudson Pearl Company did contract work reported that foreign sources now supply the articles that were previously supplied by Hudson Pearl Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with coated pearls for necklaces, beads and balls for earrings and knotted necklaces produced at Hudson Pearl Company, Incorporated, Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hudson Pearl Company, Incorporated, Union City, New Jersey who became totally or partially separated from employment on or after October 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1386 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4111]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Negative Determination Regarding Application for Reconsideration

On December 14, 1978, the petitioner requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of Lousiville and Nashville Railroad Company's Birmingham, Alabama Terminal at Boyles, Alabama. The determination was published in the Federal Register on November 24, 1978 (43 FR 55016).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the de-

termination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the Department's negative determination in the subject case is inconsistent with one made in the case of a petition filed on behalf of workers of the Birmingham Southern Railroad Company, Fairfield, Alabama, TA-W-2321. The petitioner further claims that since the Louisville and Nashville Railroad hauls steel and steel products for its customers, some of which may have workers who were certified under the Trade Act of 1974, it is intimately involved in the production of such import-impacted products and its workers should be certified.

The Department's review revealed that the Birmingham Southern Railroad Company is a wholly-owned subsidiary of the U.S. Steel Corporation and derives most of its revenue from traffic generated by the Fairfield Works of the U.S. Steel Corporation. Declines in the level of steel production at the Fairfield Works resulted in declines in rail traffic and separations of workers at Birmingham Southern. The majority of workers engaged in steel-making operations at the Fairfield Works have been previously certified as eligible to apply for trade adjustment assistance, see TA-W-1429, 1451, 1452, 2364, 2365 and 2366. The conditions which led to production declines also resulted in declines in rail traffic for U.S. Steel's Birmingham Southern Railroad.

The Department of Labor has determined in cases such as these involving railroad workers where the railroad for which they work is owned and controlled by the same firm which produces import-impacted articles whose workers were certified eligible to apply for adjustment assistance that such railroad workers may be considered as part of the integrated process of producing such import-impacted articles. Because of common ownership and control of the steel producing facility, Fairfield Works, and the railroad, Birmingham Southern, by U.S. Steel, and because the Trade Act criteria with respect to sales and employment were met for the railroad, the Department was able to find such railroad workers eligible for adjustment assistance.

In the subject case, there is no element of common ownership and control between Louisville and Nashville Railroad and its customers. Consequently, the Department is not able to consider Louisville and Nashville Railroad workers as part of the integrated production process of its customers.

With respect to the petitioner's claim that the hauling of steel and steel products by the Louisville and Nashville Railroad for its customers, some of which may have workers covered under a Trade Act certification, provides a justification for certification of the Railroad workers, the Department has found that this is no basis for certification. The Department has already determined that an independent firm for which the subject firm provides services cannot be considered the "workers' firm", TA-W-393. In the instant case, all personnel actions and payroll transactions for the workers at the Birmingham Division Terminal, Boyles, Alabama, are controlled by the Louisville and Nashville Railroad. Workers are not, at any time, under employment or supervision by customers of the L & N Railroad. Thus, the Louisville and Nashville Railroad must be considered to be the "workers' firm."

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1387 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-3469]

PACIFIC STATES STEEL CORP.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the trade Act of 1974, the Department of Labor issued a notice of determination regarding eligibility to apply for adjustment assistance on August 14, 1978, applicable to workers and former workers at the Union City, California plant of the Pacific States Steel Corporation. The Notice of Determinations was published in the FEDERAL REGISTER on August 22, 1978, (43 FR 37241).

On the basis of additional information, the Office of Trade Adjustment Assistance on its own motion reviewed the determinations. The review of the investigation revealed that (1) all divisions of Pacific States Steel Corporation ceased production on October 13, 1978 and (2) the Forge Department of the Forge Division was part of an integrated process for the production of bars and structurals at Pacific States Steel Corporation.

The Ball Department of the Forge Division produced grinding media which comprised 95 percent of the 1977 sales of the Forge Division. The Ball Department, being only a customer of the Steel Division and not a supplier, cannot be regarded as part of the Pacific Steel's integrated steel production process and, therefore, be covered by the current certification. Layoffs in the Ball Department would be attributable to the fact that its raw material supplier terminated production rather than to increased imports of grinding media. The Forge Department, which accounted for the remaining 5 percent of the Forge Division's 1977 sales shipped 25 percent of its output directly to the Steel Division as machinery parts, as part of Pacific Steel's integrated steel production process. Bars and structurals made up some 35 percent of Pacific Steel's Steel Division's output. Workers engaged in employment related to the production of bars and structurals who became separated from employment on or after March 20, 1977 were already found eligible to apply for adjustment assistance.

The notice of determinations, therefore, is revised to include the Forge Department of the Forge Division of Pacific States Steel Corporation in Union City, California.

The revised notice of determinations applicable to TA-W-3469 is hereby issued as follows:

All workers of Pacific States Steel Corporation, Union City, California engaged in employment related to the production of bars and structurals and all workers of the Forge Department of the Forge Division engaged in the production of machinery parts who became totally or partially separated from employment on or after March 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all other workers of the Pacific States Steel Corporation, Union City, California, including workers in the Ball Department of the Forge Division are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 19th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1388 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4246a]

ROCKWELL INTERNATIONAL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4246a: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 4, 1978 in response to a worker petition received on October 2, 1978 which was filed on behalf of workers and former workers distributing and selling televisions at the Schaumburg, Illinois headquarters of the Admiral Group, Rockwell International Corporation. The investigation revealed that the Admiral Group of Rockwell International also produces and sells refrigerators and freezers. The investigation was expanded to include the refrigerator and freezer production plant of Rockwell's Admiral Group at Galesburg, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Admiral Group, Rockwell International Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers at the Galesburg, Illinois plant of Rockwell's Admiral Group increased in 1977 compared with 1976, and increased in the first three quarters of 1978 compared with the same period of 1977. Average quarterly employment increased in every quarter compared with the same quarter of the previous year from the third quarter of 1977 through the third quarter of 1978. The average weekly hours worked per employee did not change significantly during this period. There is no immediate threat of separations of workers at this plant.

CONCLUSION

After careful review, I determine that all workers of the Galesburg, Illinois plant of the Admiral Group, Rockwell International Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1389 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4063 and TA-W-4064]

SPRINGS MILLS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4063 and TA-W-4064: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to a worker petition received on August 14, 1978 which was filed on behalf of workers and former workers producing polyester knit fabric at the Monroe, South Carolina and Mullins, South Carolina plants of Springs Mills, Incorporated. The investigation revealed that the Monroe plant is located in North Carolina and that workers at the Mullins plant produced polyester knit fabric until June of 1978 and since then have been limited to dying and finishing polyester knit fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Springs Mills, Incorporated Knit Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Aggregate imports of all finished fabric (bleached, dyed and printed) declined absolutely from 1976 to 1977 and then increased in the first six months of 1978 compared to the same period in 1977. The ratio of imports to domestic production remained less than 2 percent from 1974 through 1977.

The Department of Labor surveyed the customers of Springs Mills, Inc.'s Knit Division. Springs Mills' production increased in 1977 compared to 1976.

Customers who reduced purchases from Springs Mills, Inc., and increased import purchases in the first eight months of 1978 compared to the first eight months of 1977, represented an insignificant percentage of Springs Mills' production decline for that period.

The customers surveyed indicated that they were decreasing purchases of polyester knit material because of decreased demand for clothing made of this fabric.

CONCLUSION

After careful review, I determine that all workers of the Springs Mills, Incorporated plants in Monroe, North Carolina and Mullins, South Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 79-1390 Filed 1-15-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held on February 2, 1979, from 9:30 a.m. to 4:30 p.m., room 1125, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. Accommodations are limited. Interested persons may submit written statements to the panel.

The agenda for this meeting will include graphics and related material of the Army Corps of Engineers.

Further information with reference to this meeting can be obtained from Mr. Jerome Perlmutter, Coordinator of Federal Graphics, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-4286.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 5, 1979.

[FR Doc. 79-1470 Filed 1-15-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 8, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The title of each request received;

The name of the agency sponsoring the proposed collection of information;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-295-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Food Stamp Workfare Demonstration Project
Monthly
Political subdivision, 7,574 responses; 1,295 hours
Ellett, C. A., 395-6132

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Pesticide Incident Report
EPA 8550-4 thru 9
On occasion
State and Federal agencies in the pesticide incident monitoring system, 3,000 responses; 500 hours
Clarke, Edward H., 395-5867

VETERANS ADMINISTRATION

Application for Furnishing Nursing Home Care to Beneficiaries of the Veterans Administration
10-1170
On occasion
Nursing homes, 800 responses; 400 hours
Caywood, D. P., 395-6140

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Application for Registration SFSPC Food Service
Management companies
FNS-189
Annually
Food service management companies, 600 responses; 600 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicaid)
Monthly Statistical Report on Medical Care
HCFA-120
Monthly
State medicaid title XIX, 636 responses; 17,808 hours
Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Employment and Training Administration
Determinations and Allowance Activities and Employablility Services
ETA 5-63 and telegraphic report
Monthly
SESAS for petitions under the Trade Act,15,600 responses; 23,400 hours
Strasser, A., 395-6132

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration
Pilot Driver Survey on Unreported and Low-Damage Accidents Involving Bumpers
Single-time
Drivers in households within Montgomery County, Md., 1,625 responses; 625 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Telephonic Reports of Certain Accident/Incidents
On occasion
Railroads
Geiger, Susan B.; 395-5867

Federal Railroad Administration
Hours of Service of Railroad Employees
Monthly
Railroads
Geiger, Susan B., 395-5867

EXTENSIONS

PENSION BENEFIT GUARANTY CORPORATION

Annual Premium Filing
PBGC-1
Annually
Plan administrators of defined benefit pension plans, 120,000 responses; 60,000 hours
Strasser, A., 395-6132

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
Application for Certificate of Citizenship
N-600
On occasion
Citizens who derived citizenship at or after birth, 32,442 responses; 32,442 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
Annual Summary Report of Railroad Injury and Illness
FRA-F-6180-45
annually
U.S. railroads, 420 responses; 1,260 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Railroad Injury and Illness Summary Continuation Sheet
FRA-F-6180-55A
Monthly
U.S. railroads, 6,480 responses; 12,960 hours
Geiger, Susan B., 395-5867

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
Hours of Service Report
FRAF 6180-3
Monthly
Railroads
2,940 responses; 1,470 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Railroad Injury and Illness Summary
FRA-F-6180-55
Monthly
U.S. Railroads
5,040 responses; 30,240 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration

Rail Equipment Accident/Incident Report
FRA-F-6180-54
Monthly
U.S. Railroads
13,020 responses; 26,040 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Annual Railroad Report of Manhours by State
FRA F 6180-56
Annually
U.S. Railroads
420 responses; 1,260 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Rail-Highway Grade Crossing Accident/Incident Report
FRA-F-6180-57
Monthly
U.S. Railroads
12,000 responses; 6,000 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Track Safety Standards—Reporting and Recordkeeping Requirements
On occasion
Railroads
Geiger, Susan B., 395-5867

Federal Railroad Administration
U.S. DOT-AAR Crossing Inventory Form
On occasion
States, railroads
30,000 responses; 15,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-1490 Filed 1-15-79; 8:45 am]

[3110-01-M]

Office of Federal Procurement Policy

IMPLEMENTATION OF SECTION 211 AND SECTION 221(j) OF PUBLIC LAW 95-507: SUBCONTRACTING PLANS; PROCUREMENTS UNDER $10,000

Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Notice of implementation of Section 211 and Section 221(j) of Public Law 95-507.

SUMMARY: This proposed policy statement is being considered for incorporation into the Defense Acquisition Regulations (DAR) and the Federal Procurement Regulations (FPR). On October 24, 1978, the President signed into law Public Law 95-507, amending the Small Business Act and the Small Business Investment Act of 1958. Section 211 of the Small Business Act relates to subcontracting under Federal contracts; Section 221(j) reserves contracts under $10,000 for small business concerns. The proposed amendments to the Defense Acquisition Regulations and the Federal Procurement Regulations incorporate and implement the statutory changes.

DATE: Comments must be received by February 15, 1979.

ADDRESSES: Comments are to be submitted to the Office of Federal Procurement Policy, OMB, 726 Jackson Place, N.W., Room 9013, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Owen Birnbaum, Deputy Associate Administrator for Acquisition Law, (202) 395-3455.

This policy statement would be promulgated under Section 6 of Pub. L. 93-400 (41 U.S.C. 405).

LESTER A. FETTIG,
Administrator.

The following OFPP policy statement is being considered for incorporation into the Defense Acquisition Regulations (DAR) and the Federal Procurement Regulations (FPR):

SUBCONTRACTING

I. ALL CONTRACTS OVER 10,000

A. Section 7 of the Defense Acquisition Regulation and Part 1-7 of the Federal Procurement Regulations are amended to provide that the following clause be included in all contracts over $10,000 except (1) contracts for services which are personal in nature and (2) contracts which will be performed entirely (including all subcontracts) outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico:

UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

a. It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

b. The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the contractor's compliance with this clause.

c. As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) whose management and daily business operations are controlled by one or more of such individuals. The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

d. Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

B. Section 1-332 of the Defense Acquisition Regulation and subpart 1-1.13 of the Federal Procurement Regulations are amended to provide that:

1. Business owners who certify they are members of named groups (Black Americans, Hispanic Americans, Native Americans) are to be considered socially and economically disadvantaged.

2. The term "Native Americans" means American Indians, Eskimos, Aleuts and native Hawaiians.

3. Other individuals may qualify as socially and economically disadvantaged on the merits of their individual circumstances under procedures to be separately established using the following guidelines:

Socially disadvantaged individuals are those individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

H. NEGOTIATED CONTRACTS (OVER 1,000,000 FOR CONSTRUCTION OF A PUBLIC FACILITY; AND OVER 500,000 ALL OTHERS)

A. Section 1-332 and Section 1, part 7 of the Defense Acquisition Regulation, and Subparts 1-1.13 and 1-1.7 of the Federal Procurement Regulation are amended to provide that:

1. All solicitations for procurements by negotiation (including those placed on a sole source basis) which (a) offer subcontracting opportunities, (b) are

expected to exceed $500,000; or, in the case of construction of a public facility, $1,000,000; and (c) are required to include the clause stated in I.A., above, shall require that the apparent successful offeror submit a detailed subcontracting plan which must include:

a. percentage goals (expressed in terms of both percentage of value of prime contract award and total planned subcontracting) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

b. the name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

c. a description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

d. assurances that the offeror or bidder will include the clause required by I.A., above, in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000, in the case of a contract for the construction of any public facility, or in excess of $500,000 in the case of all other contracts, to adopt a plan pursuant to II.A.1.

e. assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Small Business Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

f. a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns

Contract modifications and amendments over the prescribed amounts shall also require that the contractor submit a detailed plan in compliance with 1 a.-f., above.

2. The solicitation shall state that no contract will be awarded until an acceptable plan is negotiated with the contracting officer and that acceptable plans will be incorporated into the contract. Acceptable plans must, in the determination of the contracting officer, provide the maximum practicable opportunity for small and small firms owned and controlled by socially and economically disadvantaged persons to participate in the performance of the contract; and no contract shall be awarded until a determination is made.

If the apparent successful offeror fails within the time limits prescribed in regulations of the Federal agency concerned to negotiate a subcontracting plan acceptable to the contracting officer, the offeror shall be ineligible for award of the contract. Prior compliance of the offeror with other such subcontracting plans in previous contracts shall be considered by the contracting officer in determining the responsibility of that offeror for award of contract.

3. The contracting officer shall, to the extent possible, set forth in the solicitation standards and criteria for subcontracting to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. The solicitation must also indicate that it is the contractor's responsibility to develop a satisfactory subcontracting plan with respect to *both* small business concerns *and* small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the contractor's plan will be judged independently of the other.

4. When deemed appropriate, the contracting officer may notify offerors in the solicitation that the resulting contract will provide that the contractor's reimbursement under the contract may be increased pursuant to the following clause:

INCENTIVE SUBCONTRACTING PROGRAM FOR SMALL BUSINESSES AND SMALL BUSINESSES OWNED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

(a) In furtherance of the Government's policy of promoting the development of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, the contractor agrees to award subcontracts to such businesses, as they are defined in the clause hereof entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

(b) To that purpose, the contractor shall make every reasonable effort to achieve the goal of awarding —— percent of the total dollar value of the prime contract award to small business concerns and —— percent of the total dollar value of the prime contract award to small business concerns owned and controlled by socially and economically disadvantaged individuals. To the extent that the contractor exceeds such subcontract goals in the performance of this contract, it will receive —— percent (not to exceed 10%) of such excess. Determinations by the contracting officer under this paragraph shall not be subject to the Disputes Clause of the contract.

5. The requirements set forth above may be inserted in procurement solicitations expected to result in contracts under the prescribed amounts when deemed appropriate by the contracting officer.

6. Subcontracting plans shall not be required of small business concerns.

7. The failure of any contractor or subcontractor to comply in good faith with (a) the clause contained in I.A., above, or (b) any plan required by II.A.1., above, shall be a material breach of such contract or subcontract.

8. Nothing contained in II hereof shall be construed to supersede the requirements of Defense Manpower Policy 4A or any successor policy.

III. FORMALLY ADVERTISED CONTRACTS (OVER $1,000,000 FOR CONSTRUCTION OF A PUBLIC FACILITY; AND OVER $500,000 ALL OTHERS)

A. Section 1-332 and Section 1, Part 7 of the Defense Acquisition Regulation and Subparts 1-1.13 and 1-1.7 of the Federal Procurement Regulations are amended to provide that:

1. All solicitations for procurements by formal advertising which (1) offer subcontracting opportunities; (2) are expected to exceed $500,000; or in the case of construction of a public facility $1,000,000; and (3) are required to include the clause stated in I.A., above, shall require that any bidder selected for award submit a subcontracting plan, as indicated below. The invitation for bids shall specifically call to the attention of all bidders the clause of the contract entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals." The invitation for bids shall advise that under that clause the bidder selected for award must submit within the time prescribed in the regulations of the Federal agency concerned a subcontracting plan that will afford the maximum practicable opportunity to participate in the performance of the contract to small and small disadvantaged concerns.

The contracting officer may, in a letter accompanying the invitation for bids, informally advise bidders of the goal the Government contemplates for subcontracting to both small and small disadvantaged firms. The letter should also state that the goals are informational only and not legally binding.

2. If the subcontracting plan is not satisfactory to the contracting officer the bidder shall be requested to submit, within the time limit of the Federal agency concerned, a plan that is satisfactory to the contracting officer. If such a plan is not so submitted, such bidder shall be considered non-responsible and ineligible for award of contract. Prior compliance of the offeror with other such subcontracting plans under previous contracts shall

be considered by the contracting officer in determining the responsibility of the bidder for award of contract.

3. Contract modifications and amendments over the prescribed amounts shall also require that the contractor submit a detailed plan in compliance with II.A.1., above.

4. Subcontracting plans must include the information set forth in II.A.1., above.

5. The requirements set forth above may be inserted in procurement solicitations expected to result in contracts under the prescribed amounts when deemed appropriate by the contracting officer.

6. Subcontracting plans shall not be required of small business concerns.

7. The failure of any contractor or subcontractor to comply in good faith with (a) the clause contained in I.A., above or (b) any plan required by II.A.1., above, shall be a material breach of such contract or subcontract.

8. Nothing contained in III hereof shall be construed to supersede the requirements of Defense Manpower Policy 4A or any successor policy.

IV. SECTION 1-332 AND SECTION 1, PART 7 OF THE DEFENSE ACQUISITION REGULATION AND SUBPARTS 1-1.13 AND 1-1.7 OF THE FEDERAL PROCUREMENT REGULATIONS ARE AMENDED AS FOLLOWS

Subcontracting Opportunities

1. Commercial Products: If the prime contract is for a commercial product (defined below) the required subcontracting plan may relate to the company's production of the item generally (both for the Government contract and for regular commercial sale) rather than solely to the item being procured under the government contract.

Commercial products are defined as products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices.

2. "Make-or-Buy" Policy: In negotiating subcontracting plans, the contracting officer may take into account a prime contractor's stated inability to subcontract due to an existing "make-or-buy" policy. A "make-or-buy" policy concerns the major subsystems, assemblies, subassemblies, and components which the contractor manufactures, develops, or assembles in his own facilities, and those which it obtains elsewhere by contract.

PROCUREMENTS UNDER $10,000

Section 221(j) of P.L. 95-507 requires that "each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods and services being purchased." Accordingly:

1. DAR 3-603.1g and FPR 1-3.602(b) are deleted and the following substituted therefor:

Every proposed procurement of supplies and services which has an anticipated value under $10,000 and which is to be accomplished under simplified purchase procedures shall in all cases be reserved exclusively for small businesses except where the contracting officer determines there is no reasonable expectation that two or more small business concerns will submit acceptable offers at a reasonable price.

Source lists maintained for procurements not exceeding $10,000 shall include all known small business concerns, including those owned and controlled by socially and economically disadvantaged individuals. The names of such concerns shall be obtained from the appropriate Office of Small and Disadvantaged Business Utilization, SBA representatives, and other Federal and private sources which maintain such lists.

2. DAR 3-604.1 is amended by inserting in the second sentence the words small business before the words "qualified suppliers."

3. DAR 3-604.2 is amended by inserting in the first sentence the words small business before the words "qualified sources."

4. FPR 1-3.603-1(a)(1) is amended by inserting in the second sentence the words small business before the words "qualified sources of supply."

5. FPR 1-3.603-1(a)(2) is amended by inserting in the second sentence the words small business before the words "qualified suppliers."

[FR Doc. 79-1656 Filed 1-15-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

LIMITS ON COMPENSATION OF AID ANNUITANTS

Withdrawal of Proposed Policy

AGENCY: Agency for International Development.

ACTION: Notice of Withdrawal of Proposed Policy.

SUMMARY: In the June 20 FEDERAL REGISTER (43 FR 26511), the Agency for International Development published and requested public comments on a proposed policy that would limit salaries paid to AID annuitants under AID financed contracts and grants. Comments were received and carefully considered, and the proposed policy is hereby withdrawn. No further action will be taken.

FOR FURTHER INFORMATION CONTACT:

Mr. V. Henry Walker, SER/CM/SD/POL, Office of Contract Management, Agency for International Development, Washington, D.C. 20523 (703-235-9107).

Dated: January 4, 1979.

D. G. MACDONALD,
Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 79-1480 Filed 1-15-79; 8:45 am]

[4710-01-M]

Office of the Secretary

[Public Notice CM-8/149]

OCEAN AFFAIRS ADVISORY COMMITTEE

Partially Closed Meeting

The Antarctic Section of the Ocean Affairs Advisory Committee will meet at 2:00 p.m. on Thursday, March 1, 1979 in Room 6320 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the contest of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson.

The Ocean Affairs Advisory Committee will continue its work on Friday, March 2, 1979 at 9:00 a.m. in Room 250 of the National Academy of Sciences Building, 22nd and C Streets, N.W. in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c) 1 and 5 U.S.C. b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purposes of these discussions will be to elicit views concerning the further development of Antarctic mineral resource policies and to review ongoing Antarctic marine living resource negotiations. Other matters and issues relating to the Antarctic which will be considered at the Tenth Antarctic Treaty Consultative Meeting will also be reviewed. This portion of the meeting will include classified briefings and examination and discussion of classified docu-

ments pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to Messrs. R. Tucker Scully or Lisle Rose of OES/OFA/OCA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

Dated: January 4, 1979.

BENOIT BROOKENS II,
Special Assistant to the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 79-1493 Filed 1-15-79; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Vol. No. 42]

DECISION—NOTICE

Correction

In FR Doc. 30895 appearing at page 51167, in the issue of Thursday, November 2, 1978 on page 51176, in the first column, the second paragraph designated as "MC 142508 (Sub-33F)", in the sixth line up from the end of the paragraph, between the words "Inc.," and "at" insert the following words: "Reno, NV, to the facilities of Standard Motor Products, Inc.,".

[1505-01-M]

[Decisions Vol. No. 38]

DECISION—NOTICE

Correction

In FR Doc. 78-29539, appearing at page 48755 in the issue of Thursday, October 19, 1978, make on page 48802, in the second column, tenth line of MC 124078 (Sub-856TA), "in bags" should be corrected to read "in bulk".

[1505-01-M]

[Vol. No. 121]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITY), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 30896, appearing at page 51178 in the issue of Thursday, November 2, 1978, on page 51184 in the last column, the second paragraph, in the first line, "MC 23618 (Sub-4339F)" should be corrected to read "MC 23618 (Sub-39F)".

[7035-01-M]

[Amdt. No. 1 to I.C.C. Order No. 11 Under Service Order No. 1344]

REROUTING TRAFFIC

To: All Railroads: Upon further consideration of I.C.C. Order No. 11 (Louisville and Nashville Railroad Company), and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 11 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., December 29, 1978.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[FR Doc. 79-1512 Filed 1-15-79; 8:45 am]

[7035-01-M]

[ICC Order No. 13 Under Service Order No. 1344]

REROUTING TRAFFIC

To All Railroads: In the opinion of Joel E. Burns, Agent, the Chicago and North Western Transportation Company is unable to transport traffic currently over its line between Trimont, Minnnesota, and Estherville, Iowa, because of heavy snow and ice.

It is ordered, (a) *Rerouting traffic.* The Chicago and North Western Transportation Company being unable to transport traffic currently over its line between Trimont, Minnesota, and Estherville, Iowa, because of heavy snow and ice, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

Effective date. This order shall become effective at 3:00 p.m., January 3, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railraod Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 3, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-1513 Filed 1-15-79; 8:45 am]

[7035-01-M]

[ICC Order No. 14 Under Service Order No. 1344]

REROUTING TRAFFIC

To: Soo Line Railroad Company: In the opinion of Joel E. Burns, Agent, the Soo Line Railroad Company is unable to deliver traffic to the Michigan Northern Railway Company (MN) at St. Ignace-Mackinaw City, Michigan, because of disrupted train operations on the MN caused by heavy snow and a shortage of locomotives.

It is ordered,

(a) *Rerouting traffic.* The Soo Line Railroad Company, being unable to deliver traffic to the Michigan Northern Railway Company (MN) at St. Ignace-Mackinaw City, Michigan, because of disrupted train operations on the MN caused by heavy snow and a shortage of locomotives, is authorized to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., January 3, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 10, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 3, 1979.

JOEL E. BURNS,
Agent.

[FR Doc. 79-1514 Filed 1-15-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 28934F]

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Construction and Operation of a Line of Railroad in Niobrara and Goshen Counties, Wyo., and in Sioux and Scotts Bluff Counties, Nebr.

Chicago and North Western Transportation Company (North Western), 400 West Madison Street, Chicago, IL 60606, represented by Christopher A. Mills, Senior Commerce Counsel, Chicago and North Western Transportation Company, 400 West Madison Street, Chicago, IL 60606, hereby give notice that on the 28th day of December, 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 10901 (formerly Section 1(18)) of the Interstate Commerce Act for a decision approving and authorizing the construction and operation of a line of railroad to enable it to operate unit coal trains originating in the Southern Powder River Basin in Wyoming at milepost 475.7 on North Western's esisting east-west line west of Van Tassell, WY, and will proceed in a southerly direction 56.09 miles to a point of connection with the Union Pacific Railroad Company existing North Platte Branch at milepost 163.8 at Joyce, NE. The line is located in Niobrara and Goshen Counties, WY and in Sioux and Scotts Bluffs Counties, NE.

North Western proposes to construct the connecting line in order to minimize the expense required to enable it to operate unit coal trains originating in the Southern Powder River Basin in Wyoming and destined to points on and east of the Missouri River, and to enable Union Pacific Railroad Company to participate in the movement of such trains. Substantial numbers of unit coal trains of 100 or more cars each originating in the Powder River Basin are expected to pass over the connecting line commencing in 1980 or 1981; by 1985 approximately ten unit coal trains in each direction will pass over the connecting line daily.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, or take any other specified action with respect to such application.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-1516 Filed 1-15-79; 8:45 am]

[7035-01-M]

SOUTHERN RAILWAY CO.

Possible Discontinuance of Operations of the "Southern Crescent"

AGENCY: Interstate Commerce Commission.

ACTION: Corrected Notice to the Public.

SUMMARY: This notice corrects an error contained in the FEDERAL REGISTER Notice of January 5, 1979 at page 1507.

EFFECTIVE DATE: Immediate.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Acting Deputy Director, Section of Finance, I.C.C.—Room 5417, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: The FEDERAL REGISTER Notice of January 5, 1979, at page 1507, listed the effective date as January 22, 1979. The Commission's decision January 4, 1979 stated that parties have 14 days from January 4, 1979 to file comments. The decision stated that it would be effective upon service.

Therefore, the FEDERAL REGISTER Notice of January 5, 1979 should read: "Effective date: Immediate"

The last two lines of the paragraph beginning "All parties should be changed to read: "Crescent should do so within 14 days from January 4, 1979."

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1515 Filed 1-15-79; 8:45 am]

[7035-01-M]

JANUARY 10, 1979.

[Volume No. 2]

FINANCE REPUBLICATION

Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-12759. By initial decision served January 3, 1979, SORENSEN TRANSPORTATION COMPANY, D/B/A SORENSEN TRANSPORTATION, INC. was authorized to purchase the described portion of the operating authority of C & C TRUCKING CO., INC. subject to republication in the FEDERAL REGISTER. The Administrative Law Judge required republication in order to correct an inadvertent typographical error. The original FEDERAL REGISTER Notice published February 4, 1976, refers to the twelve named counties as being in New York when in actuality they are in *New Jersey.*

The Administrative Law Judge authorized SORENSEN to acquire the following portion of C & C's operating authority: *General commodities,* excepting among others, dangerous explosives, household goods and perishable commodities, those in bulk, as a *common carrier* over irregular routes, between New York, NY, and points and places in Westchester County, NY, between points and places in Westchester County, NY, on the one hand and, on the other, points and places in Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, *NJ.*

If any person has any interest in or would be prejudiced by grant of the authority it may file an original and six copies of the petition (or any other pleading) within 30 days from the date of publication with appropriate service on applicant. The petition in each case must set forth the position and interest of the petitioner in the proceeding, including a showing of good cause for not filing objections at the time of or prior to the oral hearing and specifically why the transaction would not be in the public interest. Applicant shall file its reply within 50 days from the date of publication.

Applicants' attorney: Hugh M. Joseloff, 80 State St., Hartford, CT., 06103.

By the Commission.

H.G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1352 Filed 1-15-79; 8:45 am]

[7035-01-M]

[Decision Volume No. 63]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: December 22, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that

the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly section 210) of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed by February 15, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,
Secretary.

MC 720 (Sub-59F), filed September 11, 1978. Applicant: BIRD TRUCKING COMPANY, INC., Fond du Lac Street, Waupun, WI 53963. Representative: Ronald E. Laitsch, 113 North 3d Street, Watertown, WI 53094. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal feeds, feed ingredients, supplements, additives, and materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Matton, IL, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 1117 (Sub-16F), filed October 20, 1978. Applicant: M.G.M. TRANSPORT CORP., 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, (a) from Appomattox and Brookneal, VA, to points in CT, DE, MA, MD, NJ, NY, PA, RI, and DC, and (b) from Waynesville, NC, and Richmond and Kenbridge, VA, to points in CT, NJ, and NY. (Hearing site: High Point, NC.)

MC 11207 (Sub-456F), filed October 20, 1978. Applicant: DEATON, INC., a Delaware Corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plywood paneling, gypsum board, composition board, and molding*, from the facilities of Canbe Industries, Incorporation, at or near Valdosta, GA, to points in AL, AR, FL, IN, KY, LA, MS, NC, SC, TN, TX, and VA; and (2) *materials* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Jacksonville, FL, or Birmingham, AL.)

MC 14252 (Sub-37F), filed October 30, 1978. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., a Delaware Corporation, 3400 Refugee Road, Columbus, OH 43227. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Charleston, WV, and St. Louis, MO, over Interstate Hwy 64, (2) between Cincinnati, OH, and Lexington, Ky, over Interstate Hwy 75, (3) between Cincinnati, OH, and Louisville, KY, over Interstate Hwy 71, (4) between Indianapolis, IN, and Louisville, KY, over Interstate Hwy 65, and (5) between Terre Haute, IN, and Evansville, IN, over U.S. Hwy 41, serving all intermediate points and the off-route points of Culloden and Milton, WV, Olive Hill and Owingsville, KY, Jasper, Tell City, Columbus, Franklin, Bruceville, and Seymour, IN, the facilities of Minnie Ha-Ha Mine, at or near Dugger, IN, Sparta and Carmi, IL, and all off-route points in Clinton, Jefferson, St. Clair, and Washington Counties, IL, Clark, Floyd, Gibson, Harrison, Posey, Spencer, Vanderburgh, and Warrick Counties, IN, and Anderson, Bourbon, Boyle, Bullitt, Clark, Daviess, Fayette, Franklin, Garrard, Harrison, Henderson, Jefferson, Jessamine, Madison, Mercer, Montgomery, Oldham, Scott, Shelby, Spencer, and Woodford Counties, KY, in connection with (1) through (5) above. (Hearing site: Columbus, OH.)

MC 16903 (Sub-59F), filed November 13, 1978. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *stone, granite*, and *materials* and *machinery* used in the manufacture of stone and granite, (a) between the facilities of Rock of Ages Corporation, at Concord, NH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, OK, and TX, and (b) from points in the United States in and east of ND, SD, NE, CO, OK, and TX, to points in VT, and (2) *building stone and granite*, from points in VT to points in PA, OH, MD, VA, and DC. (Hearing site: Washington, DC.)

MC 21060 (Sub-18F), filed October 31, 1978. Applicant: IOWA PARCEL SERVICE, INC., 3123 Delaware Ave., Des Moines, IA 50313. Representative: Leonard Rose, 601 W. 47th St., Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in IA, (2) between points in IA, on the one hand, and, on the other, Omaha, NE, and (3) between Omaha, NE, and points in IA, on the one hand, and, on the other, points in Rock Island County, IL, restricted against the transportation of articles weighing more than 200 pounds each, and further restricted to the transportation of articles weighing less than 750 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day. NOTE: (a) The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an application indicating why such approval is unnecessary. (b) Dual operations may be at issue in this proceeding. (Hearing site: Both Omaha, NE, and Rock Island, IL.)

MC 27817 (Sub-147F), filed October 16, 1978. Applicant: H. C. GABLER, INC., a Delaware Corporation, R. D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, from the facilities of Rubbermaid Commercial Products,

Inc., at Winchester, VA, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, VT, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 41347 (Sub-9F), filed October 18, 1978. Applicant: DeBACK CARTAGE COMPANY, INC., 4841 West Burnham St., Milwaukee, WI 53219. Representative: William C. Dineen, Suite 412 Empire Bldg., 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *welding equipment*, from the facilities of Sellstrom Corp., at Palatine, IL, to the facilities of Applied Power, Inc., at Wauwatosa, WI; and (2) *battery chargers*, from the facilities of Schumacher Electric Corp., at Chicago, IL, to the facilities of Applied Power, Inc., at Wauwatosa, WI, in (1) and (2) above under contracts with Applied Power, Inc., of Wauwatosa, WI. (Hearing site: Milwaukee, WI.)

MC 41432 (Sub-155F), filed September 25, 1978. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Dallas, TX 75207. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, Post Office Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between San Antonio, TX, and Del Rio, TX, over U.S. Hwy 90, serving the intermediate point of Hando, TX: (2) between San Antonio, TX, and Eagle Pass, TX: from the San Antonio over U.S. Hwy 81 to junction U.S. Hwy 57, then over U.S. Hwy 57, to Eagle Pass, and return over the same route, (3) between Uvalde, TX, and Carrizo Springs, TX, over U.S. Hwy 83, serving Uvalde, La-Pryor, and Carrizo Springs for purposes of joinder only: (4) between Fort Stockton, TX, and Laredo, TX, serving the intermediate points of Del Rio and Eagle Pass, TX: from Fort Stockton over U.S. Hwy 285 to junction U.S. Hwy 90, then over U.S. Hwy 90 to junction U.S. Hwy 277, then over U.S. Hwy 277 to junction U.S. Hwy 83, then over U.S. Hwy 83 to Laredo, and return over the same route, (5) between junction U.S. Hwy 81 and U.S. Hwy 57, and Laredo, TX, serving the junction of U.S. Hwy 81 and U.S. Hwy 57 for purposes of joinder only: from junction U.S. Hwy 81 and U.S. Hwy 57 over U.S. Hwy 81 to Laredo, and return over the same route, (6) between San Marcos, TX and Corpus Christi, TX, serving the intermediate points of Sequin, Beeville and Portland, TX: from San Marcos over TX Hwy 123 to junction U.S. Hwy 181, then over U.S. Hwy 181 to Corpus Christi, and return over the same route, (7) between San Antonio, TX, and junction U.S. Hwy 181 and TX Hwy 123, serving junction U.S. Hwy 181 and TX Hwy 123 for purposes of joinder only: from San Antonio over U.S. Hwy 181 to junction TX Hwy 123 and return over the same route, (8) between San Antonio, TX, and Port Lavaca, TX, over U.S. Hwy 87, serving the intermediate points of Cuero and Victoria, TX: (9) between junction U.S. Hwy 90 and U.S. Hwy 77, and junction U.S. Hwy 77 and alternate U.S. Hwy 77, serving the intermediate points of Hallettsville, Yoakum and Cuero, TX and serving junctions for purposes of joinder only: from junction U.S. Hwy 90 and U.S. Hwy 77 over U.S. Hwy 77 to junction alternate U.S. Hwy 77, then over alternate U.S. Hwy 77 to junction U.S. Hwy 77, and then over the same route, (10) between San Marcos, TX, and junction alternate U.S. Hwy 90 and alternate U.S. Hwy 77, serving the intermediate point of Shiner, TX: from San Marcos over TX Hwy 80 to Luling, then over U.S. Hwy 183 to junction alternate U.S. Hwy 90, then over alternate U.S. Hwy 90 to junction alternate U.S. Hwy 77, and return over the same route, (11) between junction alternate U.S. Hwy 90 and U.S. Hwy 183, and Cuero, serving junction of alternate U.S. Hwy 90 and U.S. Hwy 183 for purposes of joinder only: from junction alternate U.S. Hwy 90 and U.S. Hwy 183 over U.S. Hwy 183 to Cuero, and return over the same route, (12) between Corpus Christi, and junction TX Hwy 44 and U.S. Hwy 83, serving the intermediate points of Robstown and Alice, TX and serving junction TX Hwy 44 and U.S. Hwy 83 for purposes of joinder only: from Corpus Christi over TX Hwy 44 to junction U.S. Hwy 59, then over TX Hwy 44 to junction U.S. Hwy 83, and return over the same route, (13) between Houston, TX, and Laredo, TX, over U.S. Hwy 59, serving the intermediate points of Victoria and Beeville, TX: (14) between Houston, TX, and Freeport, TX, over TX Hwy 288, serving the intermediate point of Clute, TX: (15) between Galveston, TX, and Freeport, TX: from Galveston over U.S. Hwy 75 to junction TX Hwy 6, then over TX Hwy 6 to junction TX F.M. Hwy 2004, then over TX F.M. Hwy 2004 to junction TX Hwy 288, then over TX Hwy 288 to Freeport, and return over the same route, (16) between Angleton, TX, and Corpus Christi, TX, serving the intermediate points of Bay City, Point Comfort, Port Lavaca, Aransas Pass, Gregory and Portland, TX, and the off-route points of Sweeny, Seadrift and Ingleside, TX, and serving Angleton for purposes of joinder only: from Angleton over TX Hwy 35 to junction U.S. Hwy 181, then over U.S. Hwy 181 to Corpus Christi, and return over the same route, (17) between Wharton, TX, and Bay City, TX, over TX Hwy 60, serving Wharton for the purpose of joinder only: (18) between junction U.S. Hwy 59 and TX Hwy 111 and junction TX Hwy 71 and TX Hwy 35, serving junctions for purposes of joinder only: from junction U.S. Hwy 59 and TX Hwy 111 over TX Hwy 111 to junction TX Hwy 111 and TX Hwy 71, then over TX Hwy 71 to junction TX Hwy 71 and TX Hwy 35, and return over the same route, (19) between Corpus Christi, TX and junction TX Hwy 9 and U.S. Hwy 281, serving junction TX Hwy 9 and U.S. Hwy 281 for purposes of joinder only: from Corpus Christi over TX Hwy 9 to junction U.S. Hwy 281, and return over the same route, (20) between Hallettsville, TX, and Victoria, TX, over U.S. Hwy 77, (21) between San Antonio, TX, and McAllen, TX, over U.S. Hwy 281, serving the intermediate points of Pleasanton and Alice, TX: (22) between Victoria, TX, and Brownsville, TX, over U.S. Hwy 77, serving the intermediate points of Robstown, Bishop and Kingsville, TX: (23) between Laredo, TX, and Harlingen, TX, over U.S. Hwy 83, (24) serving all intermediate and off-route points in Hidalgo, Willacy and Cameron Counties in connection with the routes set forth in (21), (22), and (23) above, (25) between Jacksonville, FL, and Beaumont, TX, over I-10; (26) between Jacksonville, FL, and Beaumont, TX; from Jacksonville over I-1- to junction I-12, then over I-12 to junction I-10, then over I-10 to Beaumont, and return over the same route, (27) between Atlanta, GA, and junction I-65 and I-10 serving junction I-65 and I-10 for purposes of joinder only: from Atlanta over I-85 to junction I-65, then over I-65 to junction I-10, and return over the same route, and (28) between Birmingham, AL, and junction I-10 and U.S. Hwy 11, serving junction I-10 and U.S. Hwy 11 for purposes of joinder only: from Birmingham over U.S. Hwy 11 to junction I-10, and return over the same route. (Hearing site: San Antonio or Dallas, TX.)

MC 41432 (Sub-156F), filed October 2, 1978. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC, 2355 Stemmons Freeway, Dallas, TX 75207. Representative: Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household

goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, TN, and junction TN Hwy 88, and U.S. Hwy 79, serving all intermediate points: from Memphis over U.S. Hwy 51, to junction TN Hwy 88, then over TN Hwy 88, to junction U.S. Hwy 79, and return over the same route, (2) between Memphis, TN, and Nashville, TN, serving the intermediate points between Memphis, TN and Huntingdon, TN including Huntingdon, TN: from Memphis over U.S. Hwy 70, to junction U.S. Hwy Alt. 70, then over U.S. Hwy Alt. 70, to junction U.S. Hwy 70, then over U.S. Hwy 70, to Nashville, and return over the same route, (3) between Brownsville, TN, and Huntingdon, TN, over U.S. Hwy 70, serving the intermediate point of Jackson, TN and the off-route point of Lexington, TN: (4) between Nashville, TN, and Knoxville, TN, over Interstate Hwy 40, serving the intermediate point of Cookeville, TN and the off-route point of Sparta, TN: (5) between Nashville, TN, and Chattanooga, TN, over U.S. Hwy 41, serving the intermediate points between Nashville, TN and Murfreesboro, TN including Murfreesboro, TN: (6) between Memphis, TN, and Chattanooga, TN, serving no intermediate points: from Memphis over U.S. Hwy 72, to junction U.S. Hwy Alt. 72, then over U.S. Hwy Alt 72, to junction U.S. Hwy 72, then over U.S. Hwy 72, to junction Interstate Hwy 24, then over Interstate Hwy 24, to Chattanooga, and return over the same route, (7) between Chattanooga, TN, and Knoxville, TN, over U.S. Hwy 11, serving all intermediate points, and the off-route point of Etowah, TN: (8) between Knoxville, TN, and Maryville, TN, serving the intermediate point of Alcoa, TN: from Knoxville over U.S. Hwy 129, to junction TN Hwy 33, then over TN Hwy 33, to junction U.S. Hwy 411, then over U.S. Hwy 411, to Maryville, and return over the same route, (9) between Knoxville, TN, and Bristol, VA, over U.S. Hwy 11W, serving all intermediate points: (10) between Knoxville, TN and Bristol, VA, over U.S. Hwy 11E, serving all intermediate points: (11) between Knoxville, TN, and Greeneville, TN, serving the intermediate points of Dandridge, TN, and Newport, TN: from Knoxville over U.S. Hwy 70, to junction U.S. Hwy 411, then over U.S. Hwy 411, to Greeneville, and return over the same route, (12) between Johnson City, TN, and junction U.S. Hwy 23, and U.S. Hwy 19, serving the intermediate point of Erwin, TN: from Johnson City over U.S. Hwy 23, to junction U.S. Hwy 19, and return over the same route, (13) between Johnson City, TN, and junction U.S. Hwy 421, and U.S. Hwy 70, serving the intermediate point of Elizabethton, TN: from Johnson City over U.S. Hwy 321, to junction U.S. Hwy 421, then over U.S. Hwy 421, to junction U.S. Hwy 70, and return over the same route, (14) between Newport, TN, and junction Interstate Hwy 40, and U.S. Hwy 23, serving no intermediate points: from Newport over Tennessee Hwy 32, to junction Interstate Hwy 40, then over Interstate Hwy 40, to junction U.S. Hwy 23, and return over the same route, (15) between Chattanooga, TN, and Atlanta, GA, over U.S. Hwy 41, serving no intermediate points: (16) between Chattanooga, TN, and Birmingham, AL, over U.S. Hwy 11, serving no intermediate points: (17) between junction U.S. Hwy Alt 70, and U.S. Hwy 45W, and junction U.S. Hwy 45, and U.S. Hwy 70, serving no intermediate points as an alternate route for operating convenience only: from junction U.S. Hwy Alt 70, and U.S. Hwy 45W, over U.S. Hwy 45W, to junction U.S. Hwy 45, then over U.S. Hwy 45, to junction U.S. Hwy 70, and return over the same route, (18) between junction U.S. Hwy Alt 70, and U.S. 45E, and junction U.S. Hwy 45, and U.S. Hwy 70, serving no intermediate points as an alternate route for operating convenience only: from junction U.S. Hwy Alt 70, and U.S. Hwy 45E, over U.S. Hwy 45E, to junction U.S. Hwy 45, then over U.S. Hwy 45, to junction U.S. Hwy 70, and return over the same route, and (19) between junction U.S. Hwy 11W, and U.S. Hwy 25E, and junction U.S. Hwy 25E and U.S. Hwy 70, serving no intermediate points and serving junction U.S. Hwy 11E and U.S. Hwy 25E for purposes of joinder only: from junction U.S. Hwy 11W and U.S. Hwy 25E over U.S. Hwy 25E to junction U.S. Hwy 70, and return over the same route. (Hearing site: Dallas, TX, or Memphis, TN.)

MC 42261 (Sub-143F), filed October 27, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and paper making materials*, between Philadelphia, PA, on the one hand and, on the other, Fort Edward and Albany, NY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 44735 (Sub-36F), filed December 1, 1978. Applicant: KISSICK TRUCK LINES, INC., a Kansas corporation, 7101 East 12th, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal articles*, from Kansas City, KS, to points in AR, IN, IA, IL, MO, MN, NE, OK, TX, and WI, and (2) *materials and supplies* used in the manufacture of metal articles, in the reverse direction. (Hearing site: Kansas City, KS.)

MC 44735 (Sub-37F), filed December 1, 1978. Applicant: KISSICK TRUCK LINES, INC., a Kansas corporation, 7101 East 12th, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, from the facilities of GAF Corporation, at Dallas, TX, to points in AR, OK, KS, MO, IL, and IA. (Hearing site: Washington, DC.)

MC 55896 (Sub-96F), filed October 16, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials* and (2) *materials and supplies* used in the installation of building materials, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, IA, IN, KY, MI, MN, MO, OH, TN, and WI. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 59117 (Sub-61F), filed October 17, 1978. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer and dry fertilizer materials*, in bulk, from Atlas, MO, to points in AR, KS, IA, IL, NE, OK, and TX. (Hearing site: Memphis, TN.)

MC 71593 (Sub-15F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, on the one hand, and, on the other, Boston and Springfield, MA, New Haven, Ct, and Philadelphia, PA, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 71593 (Sub-16F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New Haven, CT, Chicago, IL, Baltimore, MD, Boston and Springfield, MA, St. Louis, MO, New York, NY, Philadelphia, PA, Memphis, TN, and Milwaukee, WI, on the one hand, and, on the other, Denver, CO, Las Vegas, NV, and Salt Lake City, UT, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 71593 (Sub-17F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, Harrisburg, PA, and Washington, DC, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 71593 (Sub-18F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, Cleveland, Columbus, and Toledo, OH, Detroit, MI, Indianapolis, IN, and Harrisburg, PA, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on Freight Forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 94265 (Sub-270F), filed May 30, 1978, and previously noticed in the FR issue of July 6, 1978, September 18, 1978, and September 20, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305-Route 460, Windsor, VA 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pizza, pizza crust, and pizza products*, in vehicles equipped with mechanical refrigeration, from the facilities of Virga's Pizza Crust of Virginia, Inc., at or near Portsmouth, VA, to points in that part of MI south of MI Hwy 21, Chicago, IL, and points in that part of IL within 35 miles of Chicago. (Hearing site: Norfolk, VA, or Washington, DC). Note: This republication is to indicate the correct name of shipper as Vigra's Pizza Crust, instead of Virgo,'s Pizza Crust.

MC 105733 (Sub-72F), filed November 14, 1978. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, and petroleum products*, in bulk, (a) from points in Bergen, Essex, Hudson, Middlesex, and Union Counties, NJ, to points in ME, NH, VT, MA, PA, WV, OH, MI, IN, KY, IL, VA, TN, SC, NC, and GA, and (b) from points in GA, IL, IN, KY, ME, MA, MI, NH, NC, OH, PA, SC, TN, VA, WV, and VT to points in Bergen, Essex, Hudson, Middlesex, and Union Counties, NJ. (Hearing site: New York, NY.)

MC 106009 (Sub-11F), filed November 28, 1978. Applicant: CAUSTIC SODA TRANSPORTATION CO., a corporation, P.O. Box 6035, Asheville, NC 28806. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sulfuric acid*, in bulk, in tank vehicles, from Copperhill, TN, to those points in NC on and west of U.S. Hwy 1 and those in SC on and west of U.S. Hwy 1. CONDITION: Prior or coincidental cancellation, at applicant's written request, of duplicating authority in its certificate MC 106009, issued January 8, 1964. (Hearing site: Atlanta, GA.)

MC 107295 (Sub-896F), filed December 4, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials* (except commodities in bulk), between points in MT, NE, ND, SD, and WY, on the one hand, and, on the other, points in the United States (except AK and HI), (2) *lumber and lumber products*, (a) from Ashland, MT, to points in IL, IA, MN, and WI, (b) from points in SD and WY, to points in AL, AR, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, (c) from points in ID and MT, to points in IL, IN, and MO, and (d) from Spearfish, SD, to points in the United States (except AK and HI), and (3)(a) *prefabricated log homes*, and (b) *materials, equipment, and supplies* used in the erection of prefabricated log homes, from Englewood, CO, to those points in the United States in and east of WI, IA, MO, AR, and LA. (Hearing site: Denver, CO.)

MC 107295 (Sub-897F), filed December 4, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *buildings*, complete, knocked down, or in sections, (b) *building sections and building panels*, and (c) *metal prefabricated structural components*, and *panels*, from Eufaula, AL, to points in AL, FL, GA, KY, LA, MS, NC, OH, SC, TN, VA, and WV, (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in AL, FL, GA, KY, LA, MS, NC, OH, SC, TN, VA, and WV, to Eufaula, AL, and (3) *commodities* named in (1) and (2) above, between Eufaula, AL, Atlantic, IA, and Jamestown, OH. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 107912 (Sub-22F), filed November 1, 1978. Applicant: REBEL MOTOR FREIGHT, INC., 3060 Gill Road, Memphis, TN 38109. Representative: James N. Clay III, 2700 Sterick Bldg., Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jackson, MS, and Baton Rouge, LA, from Jackson over Interstate Hwy 55 to junction Interstate Hwy 12, then over Interstate Hwy 12 to Baton Rouge and return

over the same route, serving no intermediate points. (Hearing site: Memphis, TN, or Jackson, MS.)

MC 108523 (Sub-9F), filed November 13, 1978. Applicant: POLMAN TRANSFER, INC., Rt. 3 Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden posts, poles, pilings, snow fence* and *culverts, wooden bridges, bridge parts and accessories, wood treating compounds, and salt* (except commodities in bulk), between Cass Lake and Grand Rapids, MN, and Whitewood, SD, on the one hand, and, on the other, points in AR, AL, GA, TX, KY, TN, LA, MS, and OK, under a continuing contract with St. Regis Paper Company, of St. Louis Park, MN. NOTE: Dual operations may be involved. (Hearing site: St. Paul, MN.)

MC 111231 (Sub-249F), filed October 31, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. Louis, MO and Denver, CO, over Interstate Hwy 70, serving Kansas City, MO as an intermediate point, and restricted against the transportation of traffic moving between Kansas City, MO and points in its commercial zone, on the one hand, and, on the other, St. Louis, MO, and points in its commercial zone. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 111594 (Sub-80F), filed October 23, 1978. Applicant: C W TRANSPORT, INC., a Delaware corporation, 610 High Street, Wisconsin Rapids, WI 54494. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Vesper, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Madison, WI.)

MC 111611 (Sub-39F), filed October 27, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brass rods* and *unfinished brass shapes*, from the facilities of Cerro Metal Products, at or near Bellefonte, PA, and Weyers Cave, VA, to points in CA. (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 114457 (Sub-436F), filed October 10, 1978. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the distribution of foodstuffs, from Napoleon, OH, to points in IL, IN, IA, KY, MI, MN, NJ, NY, NC, SC, TX, VA, WV, and WI. (Hearing site: Cleveland, OH, or St. Paul, MN.)

MC 114917 (Sub-9F), filed October 16, 1978. Applicant: DART TRANSPORTATION SERVICE, a corporation, 1430 S. Eastman Ave., Los Angeles, CA 90023. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by mail order houses and retail department stores, between points in AZ, CA, NV, and UT, under contracts with Sears, Roebuck and Co., of New York, NY. (Hearing site: Los Angeles, CA.)

MC 115379 (Sub-48F), filed November 29, 1978. Applicant: JOHN D. BOHR, INC., P.O. Box 217, Annville, PA 17003. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemical lime*, from the facilities of Bethlehem Mines Corporation, at or near Annville, PA, to points in OH and WV, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 115826 (Sub-361F), filed October 22, 1978. Applicant: W. J. DIGBY, INC., a Nevada corporation, 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in CO to points in AL, CT, DE, FL, GA, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, WV, VA, VT, and DC. (Hearing site: Denver, CO.)

MC 115841 (Sub-652F), filed October 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., an Alabama Corporation, 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666-11th St. NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning equipment* and *heating equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), from points in Davidson County, TN, to points in FL, IA, KS, MN, and WI. (Hearing site: Nashville, TN.)

MC 115931 (Sub-74F), filed October 25, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting bituminous *fibre pipe, plastic products*, and *fibre vaults*, from the facilities of Bermico Co., at or near West Bend, WI, to points in CA, ID, OR, MT, WA, and WY. (Hearing site: Milwaukee, WI.)

MC 116063 (Sub-155F), filed November 15, 1978. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from the facilities of Hunt-Wesson Foods, Inc., at Harvey, LA, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 116099 (Sub-9F), filed December 6, 1978. Applicant: WOODWORTH & SONS, INC., P.O. Box 546, Tolono, IL 61880. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Bourbon, IL, to points in IN. (Hearing site: Chicago, IL.)

MC 116254 (Sub-216F), filed October 24, 1978. Applicant: CHEM-HAULERS, INC. 18 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicles, over irregular routes transporting: Acids and Chemicals, in bulk, in tank vehicles, from Decatur, AL, to points in DE, MD, NJ, NY, PA, VA, WV, CT, MA, NC, TN, OH, MI, IL, WI, MS, MN, IA, MO, and AR. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 117147 (Sub-10F), filed October 16, 1978. Applicant: STARR'S TRANSPORTATION, INC., Upper Main St., North Troy, VT 05850. Representative: Mary E. Kelley, 11 Riverside Ave., Medford, MA 02155. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber, hardboard, particle board, gypsum board, and molding*, and (2) *accessories and supplies* used in the installation of the commodities in (1) above, from Chesapeake and Doswell, VA, Camden, NJ, and Lewiston, Plymouth, New Bern, Moncure, and Jacksonville, NC, to points in CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, and DC, under contract with Weyerhaeuser Company, of Chesapeake, VA. NOTE: Dual operations are involved. (Hearing site: Washington, DC.)

MC 117883 (Sub-235F), filed November 8, 1978. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan. P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Freezer Queen Foods, Inc., At Buffalo, NY, to points in DE, IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, OH, NJ, PA, WI, and DC, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 118159 (Sub-283F), filed August 17, 1978, previously published in the FEDERAL REGISTER issue of September 19, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *battery boxes*, and *parts and accessories* for battery boxes, from Indianapolis, IN and Philadelphia, MS, to points in AL, CT, DE, GA, IN, KS, KY, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, and WI, (2) *equipment, materials and supplies* used in the manufacture and distribution of battery boxes, in the reverse direction. NOTE: This republication shows the addition of parts and accessories for battery boxes in part (1). (Hearing site: Chicago, IL.)

MC 118159 (Sub-301F), filed November 29, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, (except commodities in bulk), from the facilities of the Beverage Bottle Division of Hoover Universal, Inc., at or near Lenexa, KS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS, MT, NM, NV, NE, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 118159 (Sub-303F), filed December 4, 1978. Applicant: NATIONAL REGRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of cleaning aids and cleaning compounds (except commodities in bulk), (1) from Montgomery, AL, to points in CA, FL, GA, LA, TN, and TX, and (2) from Gurdon, AR, San Jose, CA, Eugene, OR, and Elkins Park and Girard, PA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 118610 (Sub-29F), filed August 29, 1978. Applicant: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, KY 42301. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery, equipment, and supplies*, used in heavy contruction, excavating, mining, road building, and logging, between the facilities of Dart Truck Company, at or near Kansas City, MO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Owensboro, KY.)

MC 118959 (Sub-187F), filed December 6, 1978. Applicant: JERRY LIPPS, INC., a Florida corporation, 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, and *parts and accessories* for glass containers, from Gas City and Indianapolis, IN, to Paducah, KY. (Hearing site: Chicago, IL.)

MC 119118 (Sub-60F), filed December 6, 1978. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, PA 15650. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from Eden, NC, to points in MD, NJ, PA, VA, WV, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, and *malt beverage containers*, (except commodities in bulk), in the reverse direction. (Hearing site: Washington, DC.)

MC 119493 (Sub-242F), filed November 16, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Ground clay, floor sweeping and absorbents*, (except commodities in bulk), from points in Tippah County, MS, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, and supplies*, used in the manufacture, sales, and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 119493 (Sub-243F), filed November 16, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe, and fittings and accessories* used in the installation of plastic pipe, from Rolla, MO, to those points in the United States in and east of MT, WY, CO, and NM, and (2) *materials and supplies* used in the manufacture of plastic pipe, and *fittings and accessories* used in the installation of plastic pipe, (except commodities in bulk), in the reverse direction. (Hearing site: St. Louis or Kansas City, MO.)

MC 119493 (Sub-245F), filed November 7, 1978. Applicant: MONKEM

COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *charcoal briquettes*, from Paschuta, MS, to points in AL, GA, SC, NC, TN, and LA, and (2) *materials and supplies* used in the manufacture, sale, and distribution of charcoal briquettes, in the reverse direction. (Hearing site: Little Rock, AR, or Jackson, MS.)

MC 119700 (Sub-41F), filed August 24, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum, gypsum wallboard*, and *gypsum joint cement*, (except commodities in bulk), from Acme, TX, to points in AR, OK, KS, LA, and NE. (Hearing site: Kansas City, MO.)

MC 123383 (Sub-86F), filed November 13, 1978. Applicant: BOYLE BROTHERS, INC., R.D. 2, Box 329C, Medford, NJ 08055. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *roofing* and *building materials*, and (2) *materials, equipment*, and *supplies* used in the manufacture, installation, and distribution of roofing and building materials, between the facilities of Georgia-Pacific Corporation, at or near Quakertown, Richland Township, Bucks County, PA, on the one hand, and, on the other, points in NJ, DE, ME, MD, NH, NY, NC, PA, OH, VT, VA, and DC. (Hearing site: Washington, DC.)

MC 123407 (Sub-506F), filed October 16, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the installation of building materials, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, KY, IN, MI, MO, ND, OH, OK, TN, and WI. (Hearing site: Washington, DC.)

MC 123778 (Sub-42F), filed October 12, 1978, and previously noticed in the FEDERAL REGISTER on November 14, 1978. Applicant: JALT CORP., d/b/a UNITED NEWSPAPER DELIVERY SERVICE, 802 Raritan Center, Edison, NJ 08817. Representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *magazines*, (2) *parts, sections, and inserts for magazines*, and (3) *paper and paper products*, from East Greenville and Lancaster, PA, to Wilmington, DE, points in CT, NJ, those in NY on and east of NY Hwy 14, those in MD and PA on and east of U.S. Hwy 15, and DC, under contract with Time, Incorporated, of New York, NY. (Hearing site: New York, NY.)

NOTE.—The purpose of this republication is to change both the commodity description and the territorial description.

MC 12819 (Sub-71F), filed December 4, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed, fish feed, and corn products*, (except commodities in bulk, in tank vehicles), from Birmingham and Decatur, AL, and Springfield, TN, to points in FL, GA, IL, IN, KY, MD, MI, MO, NC, OH, OK, SC, TX, VA, and WV, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham or Mobile, AL.)

MC 124306 (Sub-50F), filed October 19, 1978. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gas*, in bulk, in tank vehicles, from the Dixie Pipeline Terminal, at or near Milner, GA, to points in TN. (Hearing site: Atlanta, GA.)

NOTE.—The certificate to be issued here shall be limited in points of time to a period expiring 5 years from the effective date thereof.

MC 124383 (Sub-36F), filed November 16, 1978. Applicant: STAR LINE TRUCKING CORPORATION, 18460 West Lincoln Avenue, New Berlin, WI 53151. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from Chicago, IL, to points in WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 127283 (Sub-17F), filed November 15, 1978. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foundry aggregates and additives*, from those points in the United States on and east of U.S. Hwy 85, to points in IL, MI, IN, and OH, under a continuing contract with The Keener Sand and Clay Company, of Columbus, OH. (Hearing site: Columbus, OH.)

MC 127832 (Sub-14F), filed November 2, 1978. Applicant: C & S TRANSFER, INC., P.O. Box 5249, Macon, GA 31208. Representative: Wm. Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, GA 30342. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, and materials, supplies, and equipment* used in the operation of cafeterias and restaurants, (except commodities in bulk), between the facilities of State Wholesale Foods, at or near Macon, GA, and Charlottesville, Lynchburg, Norfolk, Richmond, Roanoke, and Winchester, VA, under contract with State Wholesale Food, Inc., of Macon, GA. (Hearing site: Atlanta, GA.)

MC 128652 (Sub-15F), filed October 30, 1978. Applicant: LARSON TRANSFER & STORAGE COMPANY, INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)*knocked down pre-cut houses*, from Minneapolis, MN, to points in AR, CO, IA, IL, IN, KS, MI, MO, MT. ND, NE, OK, SD, WI, and WY, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction, under contract with Capp Homes Division, Evans Products, of Minneopolis, MN. (Hearing site: Minnsapolis or St. Paul, MN.)

NOTE.—Dual operations may be involved.

MC 128878 (Sub-42F), filed December 4, 1978. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 3904, 1902 Claiborne Avenue, Shreveport, LA 71103. Representative: C. Wade Shemwell, 1902 Claiborne Aveune, Shreveport, LA 71103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *syn-*

thetic resins, in bulk, in tank vehicles, from the facilities of Chembond, Corp., in Winn Parish, LA, to points in NM; (2) *materials* used in the manufacture of synthetic resins, from points in LA to the facilities of Chembond, Corp., at or near River Falls, AL; and (3) *dry fertilizer,* (a) from Bunkie, LA, to points in MS and TX, and (b) from Shreveport and Opelousas, LA, to points in MS. (Hearing site: Shreveport, LA, or St. Louis, MO.)

MC 129809 (Sub-13F), filed October 2, 1978, previously published in the FEDERAL REGISTER issue of November 2, 1978. Applicant: A & H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, One World Trade Center—Suite 4959, New York, NY 10048. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Universal Foods Corporation, (1) at or near Franklin Park IL, and Peru, IN, to points in CT, MD, MA, NJ, NY, PA, RI, and DC, and (2) to points in MD and DC, under contract with Universal Foods Corporation, of Milwaukee, WI. This republication shows the addition of DC as a destination in parts (1) and (2) above, and the expanded origin area of part (2) above. (Hearing site: Milwaukee, WI, or New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 133562 (Sub-30F), filed November 1, 1978. Applicant: HOLIDAY EXPRESS CORPORATION, P.O. Box 115, Estherville, IA 51334. Representative; Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. To operate as a *common carrier,* by motor vehicle, in interstate commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of John Morrell & Co., at Montgomery, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations, except the transportation of traffic moving in foreign commerce). (Hearing site: Chicago, IL.)

MC 133566 (Sub-124F), filed October 19, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P. O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company, at Kansas City, KS, E. St. Louis and Rochelle, IL, to points in CT, DE, MA, MD, ME, NJ, NH, NY, PA, RI, VA, VT, WV, and DC. (hearing site: New York, NY, or Chicago, IL.)

MC 133937 (Sub-28F), filed October 16, 1978. Applicant: CAROLINA CARTAGE COMPANY, INC., a South Carolina Corporation, 1486 Willingham Drive, East Point, GA 30344. Representative: Leonard A. Jaskiewicz, 1730 M St., NW, Suite 501, Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by mail order houses and retail department stores, between Los Angeles, Ontario, San Diego, and San Francisco, CA, Chicago, IL, New Orleans, La, Baltimore, MD, Boston, MA, Detroit, MI, Kansas City and St. Louis, MO, Sparks, NV, Cincinnati, Cleveland, Columbus, and Dayton, OH, Portland, OR, Dallas, Fort Worth, and Houston, TX. Seattle, WA, Milwaukee, WI, points in AL, FL, GA, MS, NC, SC, TN, and DC, and those in Hudson County, NJ. (Hearing site: Atlanta, GA, or Los Angeles, CA.)

MC 134105 (Sub-36F), filed November 22, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and mean byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Montgomery, AL, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicato, IL.)

MC 134105 (Sub-37F), filed November 22, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen vegetables,* from the facilities of Winter Garden, Inc., at Bells and Rossville, TN, to points in AL, GA, KY, LA, MS, NC, SC, VA, and WV, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site; Atlanta, GA, or Chicago, IL.)

MC 134105 (Sub-38F), filed November 22, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by Motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rubber and rubber products,* (except commodities in bulk), from the facilities of O. K. Tire Company, at Guntersville, AL, to points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NM, and WA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Chicago, IL)

MC 134105 (Sub-39F), filed November 24, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by Motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Bananas,* and (2) *commodities* otherwise exempt from economic regulation under 49 USC § 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with bananas, from Tampa, FL, to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, VA, WV, and WI. (Hearing site: Miami, FL, or Atlanta, GA.)

MC 134323 (Sub-106F), filed November 14, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near

Dodge City, KS, to points in the United States (except AK, HI, and KS), and (2) such commodities as are used by meat packers, when destined to and for use by meat packers in the reverse direction, under continuing contract(s) with MBPXL Corporation of Wichita, KS. (Hearing site: Wichita, KS, or Amarillo, TX.)

NOTE.—Dual operations may be involved.

MC 134599 (Sub-167F), filed November 28, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware Corporation, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crated office furniture*, and *parts* for office furniture, from the facilities of Steelcase, Inc., at Grand Rapids, MI, to points in MN, under contract with Steelcase, Inc., of Grand Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT)

NOTE.—Dual operations may be involved in this proceeding.

MC 135007 (Sub-68F), filed October 18, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Miden Beef Company, at or near Minden, NE, to New York, NY, under contract with Minden Beef Company, of Minden, NE. (Hearing site: Omaha, NE.)

NOTE.—Dual operations may be involved.

MC 135052 (Sub-14F), filed November 3, 1978. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mineral wool, insulation products, and insulation materials*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, (a) between Shelbyville, IN, and Indianapolis, IN, and (b) from Shelbyville, IN, to points in AL, AR, CT, DE, FL, GA, KS, LA, ME, MA, MN, MS, NE, NH, NJ, NC, OK, RI, SC, TN, TX, VT, and VA. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 135646 (Sub-4F), filed October 16, 1978. Applicant: DERVAN CARTAGE SERVICE, INC., 1020 Coastline Ave., Albany, GA 31701. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albany and Thom>asville, GA, on the one hand, and, on the other, points in Atkinson, Baker, Ben Hill, Berrien, Brooks, Calhoun, Clay, Coffee, Colquitt, Cook, Crisp, Decatur, Dodge, Dooly, Early, Echols, Grady, Irwin, Lanier, Lee, Lowndes, Macon, Miller, Mitchell, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Telfair, Terrell, Thomas, Tift, Turner, Webster, Wilcox, Worth, Jeff Davis, and Peach Counties, GA, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Atlanta or Albany, GA.)

MC 136393 (Sub-2F), filed November 14, 1978. Applicant: NY., NJ., CONN., FREIGHT & MESSENGER CORP., 55 Lakeshore Drive, Rockaway, NJ 07866. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, and (2) from Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, to points in WY, LA, TN, KY, ND, SD, NE, CO, KS, OK, AR, and TX, restricted to the transportation of traffic moving on bills of lading of freight forwarder. (Hearing site: New York, NY.)

MC 138039 (Sub-6F), filed December 4, 1978. Applicant: BAY DELIVERY CORP., 1919 Broadhollow Rd., Farmingdale, NY 11735. Representative: Bruce J. Robbins, 118-21 Queens Blvd., Forest Hills, NY 11375. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *health and beauty aids*, between Syosset, NY, on the one hand, and, on the other, points in FL, under contract with Allou Distributors, Inc., of Syosset, NY. (Hearing site: New York, NY.)

MC 138279 (Sub-7F), filed November 14, 1978. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn products, and materials, equipment and supplies* used in the manufacture and distribution of corn products, (except commodities in bulk, in tank vehicles), between Hammond, IN, on the one hand, and, on the other, points in KY, MO, NJ, OH, PA, and TN, under a continuing contract with American Maize Products Company, of Hammond, IN. (Hearing site: Washington, DC.)

MC 138279 (Sub-8F), filed November 30, 1978. Applicant: CONALCO CONTRACT CARRIER, INC., 130 Beasley St., Jackson, TN 38301. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of aluminum, between the facilities of Ormet Corporation, at or near Hannibal, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Ormet Corporation, of Hannibal, OH. (Hearing site: Washington, DC.)

MC 138762 (Sub-29F), filed October 26, 1978. Applicant: MUNICIPAL TANK LINES LIMITED, a corporation, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *phosphoric acid*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada, at or near Buffalo, NY, to points in NY. (Hearing site: Washington, DC.)

MC 138762 (Sub-30F), filed November 3, 1978. Applicant: MUNICIPAL TANK LINES LIMITED, a corporation, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *cement*, from the facilities of AETNA Cement Corporation, at or near Essexville, MI, to the ports of entry on the international boundary line between the United

States and Canada, located in MI. (Hearing site: Washington, DC.)

MC 138875 (Sub-110F), filed October 6, 1978 and previously noticed in the FR issue of November 24, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *doors, door hardware, and door accessories* (except commodities in bulk), from Seattle, WA, to points in ID, MT, NV, UT, and WY. (Hearing site: Seattle, WA, or Boise, ID.)

NOTE.—This republication is to indicate MT as a destination state in lieu of "MI" as previously published.

MC 138875 (Sub-116F), filed November 6, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by distributors of tile, and floor covering, ceiling covering, wall covering, and counter covering (except commodities in bulk), from the facilities of Mannington Mills, Inc., at Salem, NJ, to points in AZ, CA, CO, ID, OR, MT, NM, NV, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin amd destined to the indicated destinations. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 139066 (Sub-5F), filed October 16, 1978. Applicant: VAN BUS DELIVERY COMPANY, a Corporation, d.b.a. UNITED VAN BUS DELIVERY, 2601—32nd Ave., South, Minneapolis, MN 55406. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by mail order houses and retail stores, and (2) *equipment, materials, and supplies* used in the conduct of such businesses, between Fargo and Grand forks, ND, points in IA, MN, WI, and those in Brookings, Moody, Lake, Miner, Sanborn, Minnehaha, McCook, Hanson, Davison, Lincoln, Turner, Hutchinson, Douglas, Union, Clay, Yakton, Bon Homme, and Aurora Counties, SD, on the one hand, and, on the other, points in the Upper Peninsula of Michigan, under contract with Sears, Roebuck & Company, of Chicago, IL. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 139066 (Sub-6F), filed October 16, 1978. Applicant: VAN BUS DELIVERY COMPANY, a Corporation, d/b/a UNITED VAN BUS DELIVERY, 2601-32nd Ave., South, Minneapolis, MN 55406. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by mail order houses and retail stores, and (2) *equipment, materials, and supplies* used in the conduct of such businesses, between Fargo and Grand Forks, ND, points in IA, MN, WI, and those in Brookings, Moody, Lake, Miner, Sanborn, Minnehaha, McCook, Hanson, Davison, Lincoln, Turner, Hutchison, Douglas, Union, Clay, Yakton, Bon Homme, and Aurora Counties, SD, under contract with Sears, Roebuck & Company, of Chicago, IL. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 139261 (Sub-12F), filed October 25, 1978. Applicant: BUCKEYE EXPRESS, INC., P.O. Box 368, Perrysburg, OH 43551. Representative: Michael M. Briley, 300 Madison Ave., 12th Fl., Toledo, OH 43603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cookies*, from McComb, OH, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture of cookies (except commodities in bulk), in the reverse direction, under contracts with Consolidated Biscuit Corporation, of McComb, OH, Nabisco, Inc., of East Hanover, NJ, and Fireside Food Products, of East Hanover, NJ. (Hearing site: Toledo, OH, or Washington, DC.)

MC 140682 (Sub-4F), filed November 1, 1978. Applicant: NEW (TRANS) PORT, INC., P.O. Box 188, Riceboro, GA 31323. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ash*, from Riceboro, GA, to Dothan, AL, under contract with Interstate Paper Corporation, of Riceboro, Ga. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 140686 (Sub-3F), filed October 2, 1978. Applicant: VSM TRUCKING, INC., 211 South Main Street, Abingdon, IL 61410. Representative: Robert L. Sampson (same as above). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Plumbing supplies, bathroom supplies, lavatory supplies, bathroom fixtures, and lavatory fixtures*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of Briggs Manufacturing Co., at Abingdon, IL, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IA, IN, KY, MD, MI, MN, MO, NC, NE, OH, PA, SC, TN, TX, VA, WI, and WV, under contracts with Briggs Manufacturing Company, Division of Celotex, a Jim Walter Corporation of Alington, IL. (Hearing site: Springfield or Chicago, IL.)

MC 140829 (Sub-153F), filed November 22, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey Corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of Mid-Continent Underground Storage, at or near Bonner Springs, KS, to points in KY, NC, OH, TN, TX, and WV. (Hearing site: Washington, DC.)

NOTE—Dual operations are involved in this proceeding.

MC 140829 (Sub-154F), filed November 22, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey Corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK, HI, and KS), restricted to the transportation of taffic originating at the named origin. (Hearing site: Washington, DC.)

NOTE—Dual operations may be involved in this proceeding.

MC 141076 (Sub-21F), filed October 17, 1978. Applicant: ROGERS MOTOR LINES, INC., R. D. #2, P.O. Box 388 D2, Hackettstown, NJ 07840. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Stouffer Food Company, at or near Solon and Cleveland, OH, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC.

(Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Dual operations are involved in this proceeding.

MC 141533 (Sub-7F), filed November 13, 1978. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robins, 118-21 Queens Blvd., Forest Hills, NY 11375. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, between New York, NY, and Philadelphia, PA, on the one hand, and, on the other, points in Chautauqua County, NY, and those points in PA on and west of U.S. Hwy 219. (Hearing site: New York, NY.)

MC 141921 (Sub-26F), filed October 25, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk, in tank vehicles), from the facilities of Schrafft's Candy Company, at Charlestown, and Woburn, MA, to points in PA, OH, KY, IN, WV, MI, IL, WI, MN, IA, NE, SD, MO, KS, and CO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations except traffic moving in foreign commerce. (Hearing site: Concord, NH, or Boston, MA)

Note.—Dual operations may be involved.

MC141932 (Sub-4F), filed October 31, 1978. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soap, cleaning, scouring, and washing compounds, and softeners*, (except commodities in bulk), from the facilities of the Procter and Gamble Company, at Baltimore, MD, to points in CT, MA, ME, NH, RI, and VT. (Hearing site: Boston, MA, or Washington, DC)

Note.—Dual operations may be involved.

MC 142059 (Sub-54F), filed November 17, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *freight bodies*, from Buffalo, NY, to points in the United States (except AK and HI). (Hearing site: Buffalo, NY, or Washington, DC)

MC 143059 (Sub-35F), filed November 29, 1978. Applicant: MERCER TRANSPORTATION, CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic and rubber articles*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Entek Corporation of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC)

MC 143059 (Sub-37F), filed December 1, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles, zinc articles, and lead articles*, (2) *springs*, (3) *materials, equipment and supplies* used in construction, (except commodities in bulk), from the facilities used by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corporation, and Steven Spring, Inc., at or near Blue Island and Joliet, IL, Cicero, Elkhart, Ft. Wayne, and Kokomo, IN, Centerville, IA, Grand Rapids and Lansing, MI, Jackson, MS, and Columbus and Toledo, OH, to points in the United States (except AK and HI), and (4) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, (except commidities in bulk), in the reverse direction, restricted in (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origins and destined to the named destinations, (except traffic moving in foreign commerce). (Hearing site: Louisville, KY, or Washington, DC)

MC 143739 (Sub-6F), filed December 4, 1978. Applicant: SHURSON TRUCKING CO., a Corporation, P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* and *frozen foods not fit for human consumption*, from the facilities of Continental Freezers of Illinois, at Chicago, IL, to points in IN, KY, MI, MN, MO, OH, and WI. (Hearing site: Chicago, IL)

MC 143891 (Sub-2F), filed October 26, 1978. Applicant: FLYING L TRUCKING CO., A Delaware Corporation, 1350 W. Potrero Rd., Thousand Oaks, CA 91360, Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned pet food*, from Muscatine, IA, to points in AL, CO, FL, IL, LA, MA, MD, MO, NJ, NY, OH, TX, and WV. (Hearing site: Los Angeles, LA)

MC 144041 (Sub-25F), filed October 25, 1978. Applicant; DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe* and *pipe fittings*, from Social Circle, GA, to points in AL, FL, KY, LA, MD, MS, NC, OH, SC, TN, and VA. CONDITION: Issuance of this certificate is subject to prior or concidental cancellation, at applicant's written request of MC 140883 Sub 13. (Hearing site: Washington, DC)

Note.—Dual operations may be involved.

MC 144117 (Sub-17F), filed October 16, 1978. Applicant: T. L. C. LINES, INC., 1666 Fabick Drive, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in containers, from the facilities of Schaeffer Mnufacturing Company, at St. Louis, MO to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: St. Louis, MO.)

MC 144160 (Sub-4F), filed October 17, 1978. Applicant: DONALD A. HALVORSEN, 19000 S.W. Wright Ct., Aloha, OR 97005. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *greases, motor and lubricating oils* (except commodities in bulk, in tank vehicles), *tires, and batteries*, from Portland, OR, to Shelton and Yakima, WA, under contracts with Gott Oil Co., Inc., of Shelton, WA, and R. H. Bowles Co., Inc., of Toppenish, WA. (Hearing site: Portland, OR.)

MC 144162 (Sub-3F), filed November 1, 1978. Applicant: TIME CONTRACT CARRIERS, INC., 17734 Sierra Hwy, Canyon Country, CA 91351. Repre-

sentative: Milton W. Flack, 4311 Wilshire Blvd., #300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vinyl sheeting*, from the facilities of Vinyl Services, Inc., at Fairfield, Essex County, NJ, to points in CA, GA, ID, IN, NC, and SC, under contract with Vinyl Services, Inc., of Fairfield, NJ. (Hearing site: Los Angeles, CA.)

MC 144572 (Sub-4F), filed October 30, 1978. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717-17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Inter State Express, Inc., at New York, NY, to Phoenix, AZ, Los Angeles and San Francisco, CA, Denver, CO, Chicago, IL, Kansas City, KS, Minneapolis, MN, St. Louis, MO, Omaha, NE, Oklahoma City, OK, Portland, OR, Dallas and Houston, TX, and Seattle, WA, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: Washington, DC, or Denver, CO.)

NOTE.—Dual operations may be involved.

MC 144827 (Sub-9F), filed October 16, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 1877 Farrisview, Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Los Angeles, CA, to El Paso, Dallas, Houston, and San Antonio, TX, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in section 10102(8) (formerly section 402(a)(5) of the Interstate Commerce Act.) (Hearing site: Dallas, TX.)

MC 144874 (Sub-2F), filed October 9, 1978. Applicant: HARRY J. BERRY d/b/a BERRY TRUCKING, P.O. Box 658, Penns Grove, NJ 08069. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fiberglass gasoline storage tanks, plastic gasoline storage tanks, preconditioners, ducts, and industrial ventilating equipment* (except commodities in bulk, in tank vehicles), from the facilities of the Fiberglass Equipment Division of Dart Environmental Services Company at Penns Grove, NJ, to points in the United States (except AK, CT, DE, HI, IL, IN, IA, KY, ME, MD, MA, MI, MO, NC, NH, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC.) (Hearing site: Washington, DC.)

MC 145011 (Sub-1F), filed October 24, 1978. Applicant: R. F. WESTBURY, 1617 Willis Rd., Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *drugs, drug preparations*, and *toilet preparations*, (2) *ingredients* for the commodities named in (1) above, (3) *chemicals, animal feed, fish feed, poultry feed, animal feed ingredients, fish feed ingredients, poultry feed ingredients, cleaning compounds, displays, glassware, light bulbs, paper, paper articles, pet products, pharmaceutical products, pesticides, plastic articles, rubber articles, shampoo, soap*, and *toys*, and (4) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (except in bulk, in tank vehicles), between Richmond, VA, and Cherry Hill, NJ, on the one hand, and, on the other, Dallas, TX, Des Plaines, IL, and Los Angeles, CA, under contract with A. H. Robins Company of Richmond, VA, Elkins-Sinn, Inc., of Cherry Hill, NJ, Miller-Morton Company, of Richmond, VA, and Chap Stick Co., of Lynchburg, VA. (Hearing site: Richmond, VA, or Washington, DC.)

MC 145064 (Sub-4F), filed October 23, 1978. Applicant: HUNTER TRUCKING, INC., a Nebraska corporation, 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Lumber*, (1) from Lacon and Chicago, IL, and points in KS and TN, to Keene, TX, and points in CA, UT, CO, NE, KS, MN, IA, MO, AR, WI, IL, MI, IN, OH, PA, KY, TN, VA, NC, AL, GA, and ND, (2) from points in IL, WI, IN, MI, OH, PA, and KY to Barbourville, KY, Titusville and Union City, PA, Keokuk, IA, Chicago, IL, Keene, TX, and points in CO and ND, (3) from Beardstown and Hillsdale, IL and points in IA, MO and AR to Keene, TX, and points in ND, (4) from points in AR to points in MI, IN, OH, PA, KY, VA, TN, NC, AL and GA, and (5) from points in the United States in and east of MN, IA, MO, AR, and LA, to points in OR, under contract with McGuffin Lumber, Inc., of Evanston, IL. (Hearing sight: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145125 (Sub-5F), filed December 1, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rock crushers, rock crusher parts, and accessories and tools for rock crushers, and patterns*, from Carlisle, PA, to points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, WA, and WY, and (2) *scrap steel, wooden patterns, and used, damaged, and defective rock crushers, and parts of rock crushers*, in the reverse direction. (Hearing site: Harrisburg, PA or New York, NY.)

MC 145129 (Sub-1F), filed December 1, 1978. Applicant: WHITAKER TRANSPORTATION CO., INC., P.O. Box 1705, Chattanooga, TN 37401. Representative: Virgil H. Smith, 1587 Phoenix Blvd. Suite 12, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting (1) *knocked down corrugated cartons*, and *pulpboard*, (except commodities in bulk), from the facilities of Container Corporation of America, at or near Chattanooga, TN, to points in AL and GA, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA or Chattanooga, TN.)

MC 14510 (Sub-1F), filed September 18, 1978. Applicant: McAFEE ENTERPRISES, INC., 2020 Old Hwy 31E, Jeffersonville, IN 47130. Representative: Harry Schear, 410 Elliott St., Cincinnati, OH 45215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by grocery and food business houses*, from Chicago, IL, to Jeffersonville, IN, under contact with Northland Super Market, Inc., of Jeffersonville, IN. (Hearing site: Louisville, KY or Indianapolis, IN.)

MC 145152 (Sub-18F), filed October 27, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign com-

merce, over irregular routes, transporting (1) *electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries and portable battery chargers, and lamp ballasts,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, from Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren, and Youngstown, OH, Lexington, KY, Mattoon and Danville, IL, and St. Louis, MO, to points in AZ, CA, CO, ID, LA, MT, NV, NM, OK, OR, UT, TX, WA, and WY. (Hearing site: Cleveland, OH or Fayetteville, AR.)

MC 145242 (Sub-5F), filed November 2, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles,* from the facilities of Reynolds Metals, at Richmond and Bellwood, VA, to points in IL, IN, OH, and MI. (Hearing site: Columbus, OH.)

MC 145337 (Sub-1F), filed September 18, 1978. Applicant: P.M.E., LTD., Box 181, Group 261, R.R. 2, Winnipeg, Manitoba Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods,* from New Orleans, LA, to ports of entry between the United States and Canada, at Noyes, MN and Blaine, WA. (Hearing site: Fargo, ND.)

MC 145412 (Sub-2F), filed October 26, 1978. Applicant: LEE RAY FARNSWORTH D/B/A FARNSWORTH TRUCKING, 765 East 1600 North, Orem, UT 84097. Representative: Harry D. Pugsley, 310 South Main Street, #1200, Salt Lake City, UT 84101. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dairy products,* in vehicles equipped with mechanical refrigeration, from Orem and Salt Lake City, UT, to Genoa and Reno, NV, and (2) *paper cartons,* from Reno, NV, to Orem and Salt Lake City, UT, under contract with Meadow Gold Dairies, Division of Beatrice Foods Company, of Salt Lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 145621 (Sub-1F), filed October 25, 1978. Applicant: FLOYD GARRETT, P.O. Box 533, Fernandina Beach, FL 32034. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood chips,* from those points in Georgia on and south of U.S. Hwy 80, to Fernandina Beach, FL. (Hearing site: Jacksonville or Tallahasee, FL.)

MC 145663 (Sub-2F), filed November 13, 1978. Applicant: TRANS-POLAR XPRESS, INC., 5611 N.W. Oakridge Ct., Kansas City, MO 64151. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products* and *meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at or near Miami, OK, and Rockville and Springfield, MO, to points in AR, KS, MO, OK, and GA. (Hearing site: Kansas City, MO or Des Moines, IA.)

MC 145681F, filed October 24, 1978. Applicant: McA TRUCKING, INC., Newport, MN 55055. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *contractor's equipment, contractor's tools, contractors' materials, and contractors' supplies,* and *iron and steel tanks,* between Minneapolis, MN, on the one hand, and, on the other, points in IA, SD, ND, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 145692F, filed November 3, 1978. Applicant: W. D. W. TRUCKING, INC., 2620 S.W. 66th Terrace, Miramar, FL 33023. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *aluminum articles, and building materials,* and (b) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodites in (1)(a) above, (except commodities in bulk), from the facilities of Alcan Aluminum Corp., at or near Woodbridge, NJ, to points in AL, AR, CA, CO, FL, GA, ID, MS, MT, NV, OR, SC, UT, WA, and WY, and (2) *aluminum articles,* from the facilities of Alcan Aluminum Corp., at or near Oswego, NY, to points in AL, AR, CA, CO, FL, GA, ID, MS, MT, NV, OR, SC, UT, WA, and WY, both (1) and (2) under contract with Alcan Aluminum Corp., of Cleveland, OH. (Hearing site: Washington, DC.)

MC 145762F, filed October 27, 1978. Applicant: SHAMROCK TRANSPORT INC., Building No. 62, Office No. 4, Port Everglades, FL 33316. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Dade, Broward, and Palm Beach Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by air or water. (Hearing site: Washington, DC or Miami, FL.)

MC 145825F, filed November 28, 1978. Applicant: MILLER TRANSPORTS, INC., P.O. Box 161, Pryor, OK 74361. Representative: Larry D. Henry, 1606 First National Bank Building, Tulsa, OK 74103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gas,* from points in Reno and McPherson Counties, KS, and Kay and Mayes Counties, OK, (1) to points in OK, on and east of Interstate Hwy 35, and on and north of Interstate Hwy 40, those in KS on and east of Interstate Hwy 35, and on and south of U.S. Hwy 54, and points in Reno and McPherson Counties, KS, and (2) to points in Benton, Washington, Crawford and Sebastian Counties, AR, under contract with Chelsea Butane Co., of Pryor, OK. (Hearing site: Oklahoma City, OK.)

NOTE.—To the extent the permit granted in this proceeding authorized the transportation of liquefied petroleum gas, it will expire 5 years from the date of issuance.

MC 67866 (Sub-36F), filed July 31, 1978, previously notice in the FEDERAL REGISTER issue of December 5, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between those points in OK on and east of a line beginning at the OK-TX State line and extending along U.S. Hwy 277 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the OK-KS State line, on the one hand, and, on the other, Lilbourn, MO, points in LA, AR, MS, those in KY on and west of a line beginning at the IL-KY State line, those in TN, on and west of a line beginning at the KY-TN State line and extending along U.S. Hwy 68 to junction U.S. Hwy 641,

then along U.S. Hwy 641 to the KY-TN State line and extending along U.S. Hwy 31W to Nashville, then along U.S. Hwy 31 to Columbia, then along TN Hwy 50 to Lewisburg, then along U.S. Hwy 431 to the TN-AL State line, those in AL, on, west, and north of a line beginning at the TN-AL State line and extending along AL Hwy 17 to Hamilton, then over U.S. Hwy 78 to the AL-MS State line, and those in MO on and south of a line beginning at the AR-MO State line and extending along U.S. Hwy 62 to New Madrid and the Mississippi River, restricted against the transportation of (1) any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than (200) pounds from one consignor to one consignee on any one day. (Hearing site: Memphis, TN or Little Rock, AR.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and Carolina Delivery Service Company, Inc. must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

NOTE.—This republication adds Lilbourn, MO, changes TN destination "on and east" to "on and west; and U.S. Hwy 50" to 66 TN Hwy 50."

MC 67866 (Sub-37F), filed July 31, 1978, and previously noticed in the FEDERAL REGISTER issue of December 5, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk) between Lilbourn, MO, points in LA, AR, MS, those in KY on and west of a line beginning at the IL-KY State line and extending along U.S. Hwy 68 to junction U.S. Hwy 641, then along U.S. Hwy 641 to the KY-TN State line, those in TN, on and west of a line beginning at the KY-TN State line and extending along U.S. Hwy 31W to Nashville, then along U.S. Hwy 31 to Columbia, then along TN Hwy 50 to Lewisburg, then along U.S. Hwy 431 to the TN-AL State line, those in AL, on, west, and north of a line beginning at the TN-AL State line and extending along AL Hwy 17 to Hamilton, then over U.S. Hwy 78 to the AL-MS State line, and those in MO on and south of a line beginning at the AR-MO State line and extending along U.S. Hwy 62 to New Madrid and the Mississippi River, restricted against the transportation of (1) any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than (200) pounds from one consignor to one consignee on any one day. CONDITION: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's certificate in MC-67866 Sub 33). (Hearing site: Memphis, TN or New Orleans, LA.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and Carolina Delivery Service Company, Inc. must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

NOTE.—This republication adds Lilbourn, MO, changes TN designation "on and east" to "on and west", and "U.S. Hwy 50" to "TN Hwy 50."

[FR Doc 79-1353 Filed 1-15-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[3410-05-M]

1

COMMODITY CREDIT CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 11, 1979, 44 FR 2474.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 12, 1979.

STATUS: Open meeting.

CHANGES IN THE MEETING:

1. Changes title of item 2 as follows: Docket UCZ 314 re: Guarantee of loans for pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

2. Deletes item 3 which was listed as: Docket CZ 266, Resolution 16, Amendment 1 re: Public Law 480 availability determination for dehydrated potatoes.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447-7583.

(S-82-79 Filed 1-12-79; 11:13 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 19, 1979.

PLACE: 2033 K Street N.W., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-87-79 Filed 1-12-79; 11:16 am]

[6714-01-M]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on January 10, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following items from consideration:

Recommendation with respect to payment for legal services rendered and expenses incurred by the firm of Strasburger & Price, Dallas, Texas, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation with respect to payment for legal services rendered and expenses incurred by the firm of Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: January 10, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-83-79 Filed 1-12-79; 11:13 am]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on January 10, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following matters from the agenda for consideration at the meeting:

Application of Wasatch Bank of Lehi, Lehi, Utah, for Federal deposit insurance.

Recommendation regarding the liquidation of assets acquired by the Corporation from Citizens State Bank (In Receivership), Carrizo Springs, Texas (Case No. 43,762-SR).

The Board then determined, by the same majority vote, that Corporation business required the addition of the following matters to the agenda for the meeting, on less than seven days' notice to the public:

Recommendation regarding the payment for legal services rendered and expenses incurred by the firm of Strasburger & Price, Dallas, Texas, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation regarding the payment for legal services rendered and expenses incurred by the firm of Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the recommendations in a meeting open to public observation and that such recommendations could be considered in a meeting closed to public observation by authority of subsection (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(10)).

The Board also determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: January 10, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-84-79 Filed 1-12-79; 11:13 am]

[6740-02-M]

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 15, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 17, 1979.

CHANGE IN MEETING: The following item has been added:

ITEM NUMBER, DOCKET NUMBER, AND COMPANY

ER-6, ER76-304, ER76-318, and ER76-498, New England Power Co.

KENNETH F. PLUMB,
Secretary.

[S-88-79 Filed 1-12-79; 1:52 pm]

[6210-01-M]

6

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, January 19, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement regarding Federal Reserve Act amendments designed to improve monetary control and provide for fair competition among financial institutions. (This matter was originally announced for a meeting on December 20, 1978).

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 11, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[S-89-79 Filed 1-12-79; 2:50 pm]

[7590-01-M]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 18 and 19, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, JANUARY 18

9:30 a.m.

1. Discussion of revision of NRC regulations governing the ownership of stocks, bonds and other security interests by NRC employees (approximately 1 hour), public meeting.

1:30 p.m.

1. Progress briefing by siting policy task force (approximately 1 hour), public meeting.

2. Discussion of PIRG petition for rulemaking to amend 10 CFR 100 pertaining to population density criteria around nuclear reactor sites (approximately 1 hour), public meeting.

3. Affirmation session (approximately 10 minutes), public meeting—(a) Regulation of medical uses of byproduct material; (b) Amend Part 35 to change conditions of group medical licenses; (c) Time periods for issuance of initial decisions; (d) Elimination of dose-averaging formula; and (e) Order in South Carolina E&G (summer).

FRIDAY, JANUARY 19

9:15 a.m.

1. Oral presentations in the S-3 rulemaking (environmental effects of the uranium fuel cycle) (approximately 3 hours), public meeting.

1:30 p.m.

1. Time reserved for S-3 rulemaking (approximately 1 hour), public meeting, if required.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: January 11, 1979.

ROGER M. TWEED,
Office of the Secretary.

[S-85-79 Filed 1-12-79; 11:16 am]

[8010-01-M]

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (44 FR 1831, Jan. 8, 1979.)

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: January 8, 1979.

CHANGES IN MEETING: Additional items. The following items were considered at the closed meeting on Thursday, January 11, 1979, at 10 a.m.:

Litigation matter.
Settlement of injunctive action.
Access to investigative files by Federal, state or self-regulatory authorities.
Formal order of investigation.

Chairman Williams, and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

JANUARY 11, 1979.

(S-86-79 Filed 1-12-79; 11:16 am)

federal register

TUESDAY, JANUARY 16, 1979

PART II



DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

■

OFFERING OF UNITED STATES SAVINGS BONDS

SERIES E

Dept. Circular 653
Ninth Revision
Fourth Amendment

[4810-40-M]

Title 31—Money and Finance

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment to the current offering of United States savings bonds, Series E, is to revise the tables of redemption values and investment yields for bonds of various issue dates entering their first or next extended maturity period.

EFFECTIVE DATE: January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

A. E. Martin III, Attorney-Advisor, Bureau of the Public Debt, (202) 376-0636.

SUPPLEMENTARY INFORMATION: The tables contained in the offering circular for Series E savings bonds show the redemption values and investment yields for bonds of all issue dates. Each table covers particular groupings of issue dates. When the earlier dated bonds in any group reach the end of an original or extended maturity period, it is necessary to provide a supplemental table to reflect the redemption values and investment yields that will apply to their first or next extended maturity period. During 1979, the earlier dated bonds in each of the following groups will enter their first or next extended maturity period:

(1) Table 20—bonds dated June 1 through November 1, 1949;

(2) Table 21—bonds dated December 1, 1949, through May 1, 1950;

(3) Table 63—bonds dated June 1 through August 1, 1961;

(4) Table 64—bonds dated September 1 through November 1, 1961;

(5) Table 65—bonds dated December 1, 1961, through February 1, 1962;

(6) Table 66—bonds dated March 1 through May 1, 1962;

(7) Table 96—bonds dated June 1 through November 1, 1973; and

(8) Table 98—only for bonds dated January 1 through December 1, 1974.

To reflect these new extended maturity periods, Tables 20, 21, 63, 64, 65, 66, and 96 are being supplemented to show redemption values and investment yields for the first or next extended maturity period applicable thereto. It should be noted that, in some cases, later dated bonds covered by these tables will not enter their first or next extended maturity period until after 1979. As extensions have already been irrevocably granted to these bonds, the supplemental tables published below will apply to them, provided there is no intervening change in the interest rate paid on savings bonds.

With respect to Table 98, new Table 99 is being added to cover those bonds dated January 1, 1975, through August 1, 1976, which will not enter their first extension until a later time. Table 98, which will now only cover bonds dated January 1, 1974, through December 1, 1974, is being supplemented at this time to show the redemption values and investment yields of these bonds for their first extended maturity period. These are the only bonds covered by former Table 98 that will enter an extension during 1979.

Accordingly, Department of the Treasury Circular No. 653, Ninth Revision, as amended, dated April 23, 1974 (31 CFR, Part 316) is hereby further amended by the deletion of current Table 98 and the issuance of new Tables 20-A, 21-A, 63-A, 64-A, 65-A, 66-A, 96-A, 98, 98-A and 99.

The foregoing amendment was effected under authority of Section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c) and 5 U.S.C. 301.

Since this amendment involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures thereon are unnecessary.

Dated: December 21, 1978.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[4810-40-C]

TABLE 20-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1949

Issue price	$7.50	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	Approximate investment yield (annual percentage rate)		
Denomination	10.00	25.00	50.00	100.00	200.00	500.00	1000.00			
Period (years and months after second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* THIRD EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(6/1/79)	$25.88	$64.71	$129.42	$258.84	$517.68	$1294.20	$2588.40	----	6.00	6.00
0-6 to 1-0 . . . . (12/1/79)	26.66	66.65	133.30	266.60	533.20	1333.00	2666.00	6.00	6.00	6.00
1-0 to 1-6 . . . . (6/1/80)	27.46	68.65	137.30	274.60	549.20	1373.00	2746.00	6.00	6.00	6.00
1-6 to 2-0 . . . . (12/1/80)	28.28	70.71	141.42	282.84	565.68	1414.20	2828.40	6.00	6.00	6.00
2-0 to 2-6 . . . . (6/1/81)	29.13	72.83	145.66	291.32	582.64	1456.60	2913.20	6.00	6.01	6.00
2-6 to 3-0 . . . . (12/1/81)	30.01	75.02	150.04	300.08	600.16	1500.40	3000.80	6.00	6.00	6.00
3-0 to 3-6 . . . . (6/1/82)	30.91	77.27	154.54	309.08	618.16	1545.40	3090.80	6.00	6.00	6.00
3-6 to 4-0 . . . . (12/1/82)	31.84	79.59	159.18	318.36	636.72	1591.80	3183.60	6.00	5.98	6.00
4-0 to 4-6 . . . . (6/1/83)	32.79	81.97	163.94	327.88	655.76	1639.40	3278.80	6.00	6.00	6.00
4-6 to 5-0 . . . . (12/1/83)	33.77	84.43	168.86	337.72	675.44	1688.60	3377.20	6.00	5.99	6.00
5-0 to 5-6 . . . . (6/1/84)	34.78	86.96	173.92	347.84	695.68	1739.20	3478.40	6.00	6.00	6.00
5-6 to 6-0 . . . . (12/1/84)	35.83	89.57	179.14	358.28	716.56	1791.40	3582.80	6.00	6.01	6.00
6-0 to 6-6 . . . . (6/1/85)	36.90	92.26	184.52	369.04	738.08	1845.20	3690.40	6.00	6.00	6.00
6-6 to 7-0 . . . . (12/1/85)	38.01	95.03	190.06	380.12	760.24	1900.60	3801.20	6.00	6.00	6.00
7-0 to 7-6 . . . . (6/1/86)	39.15	97.88	195.76	391.52	783.04	1957.60	3915.20	6.00	6.01	6.00
7-6 to 8-0 . . . . (12/1/86)	40.33	100.82	201.64	403.28	806.56	2016.40	4032.80	6.00	5.99	6.00
8-0 to 8-6 . . . . (6/1/87)	41.54	103.84	207.68	415.36	830.72	2076.80	4153.60	6.00	6.01	6.00
8-6 to 9-0 . . . . (12/1/87)	42.78	106.96	213.92	427.84	855.68	2139.20	4278.40	6.00	5.98	6.00
9-0 to 9-6 . . . . (6/1/88)	44.06	110.16	220.32	440.64	881.28	2203.20	4406.40	6.00	6.01	6.00
9-6 to10-0 . . . . (12/1/88)	45.39	113.47	226.94	453.88	907.76	2269.40	4538.80	6.00	5.99	5.99
10-0 2/ . . . . . (6/1/89)	46.75	116.87	233.74	467.48	934.96	2337.40	4674.80	6.00 3/	----	----

1/ Month, day, and year on which issues of June 1, 1949, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.63 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 21-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1949, THROUGH MAY 1, 1950

Issue price	$7.50	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	Approximate investment yield (annual percentage rate)		
Denomination	10.00	25.00	50.00	100.00	200.00	500.00	1000.00			
Period (years and months after second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* THIRD EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(12/1/79)	$26.15	$65.38	$130.76	$261.52	$523.04	$1307.60	$2615.20	----	6.00	6.00
0-6 to 1-0 . . . . (6/1/80)	26.94	67.34	134.68	269.36	538.72	1346.80	2693.60	6.00	6.00	6.00
1-0 to 1-6 . . . . (12/1/80)	27.74	69.36	138.72	277.44	554.88	1387.20	2774.40	6.00	6.00	6.00
1-6 to 2-0 . . . . (6/1/81)	28.58	71.44	142.88	285.76	571.52	1428.80	2857.60	6.00	6.02	6.00
2-0 to 2-6 . . . . (12/1/81)	29.44	73.59	147.18	294.36	588.72	1471.80	2943.60	6.00	5.98	6.00
2-6 to 3-0 . . . . (6/1/82)	30.32	75.79	151.58	303.16	606.32	1515.80	3031.60	6.00	6.02	6.00
3-0 to 3-6 . . . . (12/1/82)	31.23	78.07	156.14	312.28	624.56	1561.40	3122.80	6.00	5.99	6.00
3-6 to 4-0 . . . . (6/1/83)	32.16	80.41	160.82	321.64	643.28	1608.20	3216.40	6.00	5.99	6.00
4-0 to 4-6 . . . . (12/1/83)	33.13	82.82	165.64	331.28	662.56	1656.40	3312.80	6.00	6.01	6.00
4-6 to 5-0 . . . . (6/1/84)	34.12	85.31	170.62	341.24	682.48	1706.20	3412.40	6.00	6.00	6.00
5-0 to 5-6 . . . . (12/1/84)	35.15	87.87	175.74	351.48	702.96	1757.40	3514.80	6.00	5.99	6.00
5-6 to 6-0 . . . . (6/1/85)	36.20	90.50	181.00	362.00	724.00	1810.00	3620.00	6.00	6.01	6.00
6-0 to 6-6 . . . . (12/1/85)	37.29	93.22	186.44	372.88	745.76	1864.40	3728.80	6.00	5.99	6.00
6-6 to 7-0 . . . . (6/1/86)	38.40	96.01	192.02	384.04	768.08	1920.20	3840.40	6.00	6.00	6.00
7-0 to 7-6 . . . . (12/1/86)	39.56	98.89	197.78	395.56	791.12	1977.80	3955.60	6.00	6.01	6.00
7-6 to 8-0 . . . . (6/1/87)	40.74	101.86	203.72	407.44	814.88	2037.20	4074.40	6.00	6.01	6.00
8-0 to 8-6 . . . . (12/1/87)	41.97	104.92	209.84	419.68	839.36	2098.40	4196.80	6.00	5.99	6.00
8-6 to 9-0 . . . . (6/1/88)	43.22	108.06	216.12	432.24	864.48	2161.20	4322.40	6.00	6.02	6.00
9-0 to 9-6 . . . . (12/1/88)	44.52	111.31	222.62	445.24	890.48	2226.20	4452.40	6.00	5.98	5.99
9-6 to10-0 . . . . (6/1/89)	45.86	114.64	229.28	458.56	917.12	2292.80	4585.60	6.00	6.00	6.00
10-0 2/ . . . . . (12/1/89)	47.23	118.08	236.16	472.32	944.64	2361.60	4723.20	6.00 3/	----	----

1/ Month, day, and year on which issues of Dec. 1, 1949, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.65 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 63-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH AUG. 1, 1961

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(3/1/79)	$44.17	$88.34	$176.68	$353.36	$883.40	$1766.80	$17668	----	6.02	6.00
0-6 to 1-0 . . . . (9/1/79)	45.50	91.00	182.00	364.00	910.00	1820.00	18200	6.02	5.98	6.00
1-0 to 1-6 . . . . (3/1/80)	46.86	93.72	187.44	374.88	937.20	1874.40	18744	6.00	6.02	6.00
1-6 to 2-0 . . . . (9/1/80)	48.27	96.54	193.08	386.16	965.40	1930.80	19308	6.01	5.97	6.00
2-0 to 2-6 . . . . (3/1/81)	49.71	99.42	198.84	397.68	994.20	1988.40	19884	6.00	6.04	6.00
2-6 to 3-0 . . . . (9/1/81)	51.21	102.42	204.84	409.68	1024.20	2048.40	20484	6.00	5.98	6.00
3-0 to 3-6 . . . . (3/1/82)	52.74	105.48	210.96	421.92	1054.80	2109.60	21096	6.00	5.99	6.00
3-6 to 4-0 . . . . (9/1/82)	54.32	108.64	217.28	434.56	1086.40	2172.80	21728	6.00	6.00	6.00
4-0 to 4-6 . . . . (3/1/83)	55.95	111.90	223.80	447.60	1119.00	2238.00	22380	6.00	6.01	6.00
4-6 to 5-0 . . . . (9/1/83)	57.63	115.26	230.52	461.04	1152.60	2305.20	23052	6.00	6.00	6.00
5-0 to 5-6 . . . . (3/1/84)	59.36	118.72	237.44	474.88	1187.20	2374.40	23744	6.00	6.00	6.00
5-6 to 6-0 . . . . (9/1/84)	61.14	122.28	244.56	489.12	1222.80	2445.60	24456	6.00	6.02	6.00
6-0 to 6-6 . . . . (3/1/85)	62.98	125.96	251.92	503.84	1259.60	2519.20	25192	6.00	6.00	6.00
6-6 to 7-0 . . . . (9/1/85)	64.87	129.74	259.48	518.96	1297.40	2594.80	25948	6.00	5.98	6.00
7-0 to 7-6 . . . . (3/1/86)	66.81	133.62	267.24	534.48	1336.20	2672.40	26724	6.00	6.02	6.00
7-6 to 8-0 . . . . (9/1/86)	68.82	137.64	275.28	550.56	1376.40	2752.80	27528	6.00	5.99	6.00
8-0 to 8-6 . . . . (3/1/87)	70.88	141.76	283.52	567.04	1417.60	2835.20	28352	6.00	6.01	6.00
8-6 to 9-0 . . . . (9/1/87)	73.01	146.02	292.04	584.08	1460.20	2920.40	29204	6.00	6.00	6.00
9-0 to 9-6 . . . . (3/1/88)	75.20	150.40	300.80	601.60	1504.00	3008.00	30080	6.00	5.98	6.00
9-6 to10-0 . . . . (9/1/88)	77.45	154.90	309.80	619.60	1549.00	3098.00	30980	6.00	6.02	6.02
10-0 2/ . . . . . (3/1/89)	79.78	159.56	319.12	638.24	1595.60	3191.20	31912	6.00 3/	----	----

1/ Month, day, and year on which issues of June 1, 1961, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.29 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 64-A

BONDS BEARING ISSUE DATES FROM SEPT. 1 THROUGH NOV. 1, 1961

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(6/1/79)	$44.56	$89.12	$178.24	$356.48	$891.20	$1782.40	$17824	----	6.01	6.00
0-6 to 1-0 . . . . (12/1/79)	45.90	91.80	183.60	367.20	918.00	1836.00	18360	6.01	5.97	6.00
1-0 to 1-6 . . . . (6/1/80)	47.27	94.54	189.08	378.16	945.40	1890.80	18908	5.99	6.01	6.00
1-6 to 2-0 . . . . (12/1/80)	48.69	97.38	194.76	389.52	973.80	1947.60	19476	6.00	6.00	6.00
2-0 to 2-6 . . . . (6/1/81)	50.15	100.30	200.60	401.20	1003.00	2006.00	20060	6.00	6.02	6.00
2-6 to 3-0 . . . . (12/1/81)	51.66	103.32	206.64	413.28	1033.20	2066.40	20664	6.00	6.00	6.00
3-0 to 3-6 . . . . (6/1/82)	53.21	106.42	212.84	425.68	1064.20	2128.40	21284	6.00	5.98	6.00
3-6 to 4-0 . . . . (12/1/82)	54.80	109.60	219.20	438.40	1096.00	2192.00	21920	6.00	6.02	6.00
4-0 to 4-6 . . . . (6/1/83)	56.45	112.90	225.80	451.60	1129.00	2258.00	22580	6.00	5.99	6.00
4-6 to 5-0 . . . . (12/1/83)	58.14	116.28	232.56	465.12	1162.80	2325.60	23256	6.00	5.99	6.00
5-0 to 5-6 . . . . (6/1/84)	59.88	119.76	239.52	479.04	1197.60	2395.20	23952	6.00	6.01	6.00
5-6 to 6-0 . . . . (12/1/84)	61.68	123.36	246.72	493.44	1233.60	2467.20	24672	6.00	6.00	6.00
6-0 to 6-6 . . . . (6/1/85)	63.53	127.06	254.12	508.24	1270.60	2541.20	25412	6.00	6.01	6.00
6-6 to 7-0 . . . . (12/1/85)	65.44	130.88	261.76	523.52	1308.80	2617.60	26176	6.00	5.99	6.00
7-0 to 7-6 . . . . (6/1/86)	67.40	134.80	269.60	539.20	1348.00	2696.00	26960	6.00	5.99	6.00
7-6 to 8-0 . . . . (12/1/86)	69.42	138.84	277.68	555.36	1388.40	2776.80	27768	6.00	6.02	6.00
8-0 to 8-6 . . . . (6/1/87)	71.51	143.02	286.04	572.08	1430.20	2860.40	28604	6.00	5.99	6.00
8-6 to 9-0 . . . . (12/1/87)	73.65	147.30	294.60	589.20	1473.00	2946.00	29460	6.00	6.00	6.00
9-0 to 9-6 . . . . (6/1/88)	75.86	151.72	303.44	606.88	1517.20	3034.40	30344	6.00	6.01	6.00
9-6 to10-0 . . . . (12/1/88)	78.14	156.28	312.56	625.12	1562.80	3125.60	31256	6.00	5.99	5.99
10-0 2/ . . . . . (6/1/89)	80.48	160.96	321.92	643.84	1609.60	3219.20	32192	6.00 3/	----	----

1/ Month, day, and year on which issues of Sept. 1, 1961, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.32 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 65-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1961, THROUGH FEB. 1, 1962

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(9/1/79)	$44.69	$89.38	$178.76	$357.52	$893.80	$1787.60	$17876	----	6.00	6.00
0-6 to 1-0 . . . . (3/1/80)	46.03	92.06	184.12	368.24	920.60	1841.20	18412	6.00	6.00	6.00
1-0 to 1-6 . . . . (9/1/80)	47.41	94.82	189.64	379.28	948.20	1896.40	18964	6.00	5.99	6.00
1-6 to 2-0 . . . . (3/1/81)	48.83	97.66	195.32	390.64	976.60	1953.20	19532	5.99	6.02	6.00
2-0 to 2-6 . . . . (9/1/81)	50.30	100.60	201.20	402.40	1006.00	2012.00	20120	6.00	6.00	6.00
2-6 to 3-0 . . . . (3/1/82)	51.81	103.62	207.24	414.48	1036.20	2072.40	20724	6.00	5.98	6.00
3-0 to 3-6 . . . . (9/1/82)	53.36	106.72	213.44	426.88	1067.20	2134.40	21344	6.00	6.00	6.00
3-6 to 4-0 . . . . (3/1/83)	54.96	109.92	219.84	439.68	1099.20	2198.40	21984	6.00	6.00	6.00
4-0 to 4-6 . . . . (9/1/83)	56.61	113.22	226.44	452.88	1132.20	2264.40	22644	6.00	6.01	6.00
4-6 to 5-0 . . . . (3/1/84)	58.31	116.62	233.24	466.48	1166.20	2332.40	23324	6.00	6.00	6.00
5-0 to 5-6 . . . . (9/1/84)	60.06	120.12	240.24	480.48	1201.20	2402.40	24024	6.00	5.99	6.00
5-6 to 6-0 . . . . (3/1/85)	61.86	123.72	247.44	494.88	1237.20	2474.40	24744	6.00	6.01	6.00
6-0 to 6-6 . . . . (9/1/85)	63.72	127.44	254.88	509.76	1274.40	2548.80	25488	6.00	5.99	6.00
6-6 to 7-0 . . . . (3/1/86)	65.63	131.26	262.52	525.04	1312.60	2625.20	26252	6.00	6.00	6.00
7-0 to 7-6 . . . . (9/1/86)	67.60	135.20	270.40	540.80	1352.00	2704.00	27040	6.00	6.01	6.00
7-6 to 8-0 . . . . (3/1/87)	69.63	139.26	278.52	557.04	1392.60	2785.20	27852	6.00	5.97	6.00
8-0 to 8-6 . . . . (9/1/87)	71.71	143.42	286.84	573.68	1434.20	2868.40	28684	6.00	6.02	6.01
8-6 to 9-0 . . . . (3/1/88)	73.87	147.74	295.48	590.96	1477.40	2954.80	29548	6.00	5.98	6.00
9-0 to 9-6 . . . . (9/1/88)	76.08	152.16	304.32	608.64	1521.60	3043.20	30432	6.00	5.99	6.01
9-6 to10-0 . . . . (3/1/89)	78.36	156.72	313.44	626.88	1567.20	3134.40	31344	6.00	6.02	6.02
10-0 2/ . . . . . (9/1/89)	80.72	161.44	322.88	645.76	1614.40	3228.80	32288	6.00 3/	----	----

1/ Month, day, and year on which issues of Dec. 1, 1961, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.33 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 66-A

BONDS BEARING ISSUE DATES FROM MARCH 1 THROUGH MAY 1, 1962

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(12/1/79)	$44.90	$89.80	$179.60	$359.20	$898.00	$1796.00	$17960	----	6.01	6.00
0-6 to 1-0 . . . . (6/1/80)	46.25	92.50	185.00	370.00	925.00	1850.00	18500	6.01	5.97	6.00
1-0 to 1-6 . . . . (12/1/80)	47.63	95.26	190.52	381.04	952.60	1905.20	19052	5.99	6.00	6.00
1-6 to 2-0 . . . . (6/1/81)	49.06	98.12	196.24	392.48	981.20	1962.40	19624	6.00	6.03	6.00
2-0 to 2-6 . . . . (12/1/81)	50.54	101.08	202.16	404.32	1010.80	2021.60	20216	6.00	5.98	6.00
2-6 to 3-0 . . . . (6/1/82)	52.05	104.10	208.20	416.40	1041.00	2082.00	20820	6.00	5.99	6.00
3-0 to 3-6 . . . . (12/1/82)	53.61	107.22	214.44	428.88	1072.20	2144.40	21444	6.00	6.01	6.00
3-6 to 4-0 . . . . (6/1/83)	55.22	110.44	220.88	441.76	1104.40	2208.80	22088	6.00	6.01	6.00
4-0 to 4-6 . . . . (12/1/83)	56.88	113.76	227.52	455.04	1137.60	2275.20	22752	6.00	5.98	6.00
4-6 to 5-0 . . . . (6/1/84)	58.58	117.16	234.32	468.64	1171.60	2343.20	23432	6.00	6.01	6.00
5-0 to 5-6 . . . . (12/1/84)	60.34	120.68	241.36	482.72	1206.80	2413.60	24136	6.00	6.00	6.00
5-6 to 6-0 . . . . (6/1/85)	62.15	124.30	248.60	497.20	1243.00	2486.00	24860	6.00	6.02	6.00
6-0 to 6-6 . . . . (12/1/85)	64.02	128.04	256.08	512.16	1280.40	2560.80	25608	6.00	6.00	6.00
6-6 to 7-0 . . . . (6/1/86)	65.94	131.88	263.76	527.52	1318.80	2637.60	26376	6.00	6.01	6.00
7-0 to 7-6 . . . . (12/1/86)	67.92	135.84	271.68	543.36	1358.40	2716.80	27168	6.00	5.98	6.00
7-6 to 8-0 . . . . (6/1/87)	69.95	139.90	279.80	559.60	1399.00	2798.00	27980	6.00	6.00	6.00
8-0 to 8-6 . . . . (12/1/87)	72.05	144.10	288.20	576.40	1441.00	2882.00	28820	6.00	6.00	6.00
8-6 to 9-0 . . . . (6/1/88)	74.21	148.42	296.84	593.68	1484.20	2968.40	29684	6.00	6.01	6.00
9-0 to 9-6 . . . . (12/1/88)	76.44	152.88	305.76	611.52	1528.80	3057.60	30576	6.00	5.99	5.99
9-6 to10-0 . . . . (6/1/89)	78.73	157.46	314.92	629.84	1574.60	3149.20	31492	6.00	6.00	6.00
10-0 2/ . . . . . (12/1/89)	81.09	162.18	324.36	648.72	1621.80	3243.60	32436	6.00 3/	----	----

1/ Month, day, and year on which issues of March 1, 1962, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.35 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 96-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1973

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after original maturity at 5 years 10 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/(4/1/79)	$26.40	$52.80	$79.20	$105.60	$211.20	$528.00	$1056.00	$10560	----	5.98	6.00
0-6 to 1-0 . . . . (10/1/79)	27.19	54.38	81.57	108.76	217.52	543.80	1087.60	10876	5.98	6.03	6.00
1-0 to 1-6 . . . . (4/1/80)	28.01	56.02	84.03	112.04	224.08	560.20	1120.40	11204	6.01	6.00	6.00
1-6 to 2-0 . . . . (10/1/80)	28.85	57.70	86.55	115.40	230.80	577.00	1154.00	11540	6.00	5.96	6.00
2-0 to 2-6 . . . . (4/1/81)	29.71	59.42	89.13	118.84	237.68	594.20	1188.40	11884	5.99	5.99	6.00
2-6 to 3-0 . . . . (10/1/81)	30.60	61.20	91.80	122.40	244.80	612.00	1224.00	12240	5.99	6.01	6.00
3-0 to 3-6 . . . . (4/1/82)	31.52	63.04	94.56	126.08	252.16	630.40	1260.80	12608	6.00	6.03	6.00
3-6 to 4-0 . . . . (10/1/82)	32.47	64.94	97.41	129.88	259.76	649.40	1298.80	12988	6.00	5.97	6.00
4-0 to 4-6 . . . . (4/1/83)	33.44	66.88	100.32	133.76	267.52	668.80	1337.60	13376	6.00	6.04	6.00
4-6 to 5-0 . . . . (10/1/83)	34.45	68.90	103.35	137.80	275.60	689.00	1378.00	13780	6.00	5.98	6.00
5-0 to 5-6 . . . . (4/1/84)	35.48	70.96	106.44	141.92	283.84	709.60	1419.20	14192	6.00	5.98	6.00
5-6 to 6-0 . . . . (10/1/84)	36.54	73.08	109.62	146.16	292.32	730.80	1461.60	14616	6.00	6.02	6.00
6-0 to 6-6 . . . . (4/1/85)	37.64	75.28	112.92	150.56	301.12	752.80	1505.60	15056	6.00	6.00	6.00
6-6 to 7-0 . . . . (10/1/85)	38.77	77.54	116.31	155.08	310.16	775.40	1550.80	15508	6.00	5.98	6.00
7-0 to 7-6 . . . . (4/1/86)	39.93	79.86	119.79	159.72	319.44	798.60	1597.20	15972	6.00	6.01	6.00
7-6 to 8-0 . . . . (10/1/86)	41.13	82.26	123.39	164.52	329.04	822.60	1645.20	16452	6.00	5.98	6.00
8-0 to 8-6 . . . . (4/1/87)	42.36	84.72	127.08	169.44	338.88	847.20	1694.40	16944	6.00	6.04	6.00
8-6 to 9-0 . . . . (10/1/87)	43.64	87.28	130.92	174.56	349.12	872.80	1745.60	17456	6.00	5.96	5.99
9-0 to 9-6 . . . . (4/1/88)	44.94	89.88	134.82	179.76	359.52	898.80	1797.60	17976	6.00	6.01	6.01
9-6 to10-0 . . . . (10/1/88)	46.29	92.58	138.87	185.16	370.32	925.80	1851.60	18516	6.00	6.01	6.01
10-0 2/ . . . . . (4/1/89)	47.68	95.36	143.04	190.72	381.44	953.60	1907.20	19072	6.00 3/	----	----

1/ Month, day, and year on which issues of June 1, 1973, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 10 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 5.98 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 98

BONDS BEARING ISSUE DATES FROM JAN. 1, 1974, THROUGH DEC. 1, 1974

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after issue)	(1) Redemption values during each half-year period (values increase on first day of period)								(2) From issue date to beginning of each ½-yr. period	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/(1/1/74)	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	----	3.73	6.00
0-6 to 1-0 . . . . (7/1/74)	19.10	38.20	57.30	76.40	152.80	382.00	764.00	7640	3.73	5.34	6.25
1-0 to 1-6 . . . . (1/1/75)	19.61	39.22	58.83	78.44	156.88	392.20	784.40	7844	4.54	5.00	6.37
1-6 to 2-0 . . . . (7/1/75)	20.10	40.20	60.30	80.40	160.80	402.00	804.00	8040	4.69	4.98	6.57
2-0 to 2-6 . . . . (1/1/76)	20.60	41.20	61.80	82.40	164.80	412.00	824.00	8240	4.76	5.24	6.83
2-6 to 3-0 . . . . (7/1/76)	21.14	42.28	63.42	84.56	169.12	422.80	845.60	8456	4.86	5.39	7.15
3-0 to 3-6 . . . . (1/1/77)	21.71	43.42	65.13	86.84	173.68	434.20	868.40	8684	4.95	5.53	7.59
3-6 to 4-0 . . . . (7/1/77)	22.31	44.62	66.93	89.24	178.48	446.20	892.40	8924	5.03	5.92	8.29
4-0 to 4-6 . . . . (1/1/78)	22.97	45.94	68.91	91.88	183.76	459.40	918.80	9188	5.14	6.09	9.48
4-6 to 5-0 . . . . (7/1/78)	23.67	47.34	71.01	94.68	189.36	473.40	946.80	9468	5.25	12.93	12.93
5-0 2/ . . . . . (1/1/79)	25.20	50.40	75.60	100.80	201.60	504.00	1008.00	10080	6.00	----	----

1/ Month, day and year on which issues of January 1, 1974, enter each period. For subsequent issue months add the appropriate number of months.
2/ Maturity value reached at 5 years and 0 months after issue.

TABLE 98-A

BONDS BEARING ISSUE DATES FROM JAN. 1, 1974, THROUGH DEC. 1, 1974

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after original maturity at 5 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 1/ (1/1/79)	$25.20	$50.40	$75.60	$100.80	$201.60	$504.00	$1008.00	$10080	——	6.03	6.00
0-6 to 1-0 (7/1/79)	25.96	51.92	77.88	103.84	207.68	519.20	1038.40	10384	6.03	5.93	6.00
1-0 to 1-6 (1/1/80)	26.73	53.46	80.19	106.92	213.84	534.60	1069.20	10692	5.98	6.06	6.00
1-6 to 2-0 (7/1/80)	27.54	55.08	82.62	110.16	220.32	550.80	1101.60	11016	6.01	5.95	6.00
2-0 to 2-6 (1/1/81)	28.36	56.72	85.08	113.44	226.88	567.20	1134.40	11344	5.99	5.99	6.00
2-6 to 3-0 (7/1/81)	29.21	58.42	87.63	116.84	233.68	584.20	1168.40	11684	5.99	6.03	6.00
3-0 to 3-6 (1/1/82)	30.09	60.18	90.27	120.36	240.72	601.80	1203.60	12036	6.00	5.98	6.00
3-6 to 4-0 (7/1/82)	30.99	61.98	92.97	123.96	247.92	619.80	1239.60	12396	6.00	6.00	6.00
4-0 to 4-6 (1/1/83)	31.92	63.84	95.76	127.68	255.36	638.40	1276.80	12768	6.00	6.02	6.00
4-6 to 5-0 (7/1/83)	32.88	65.76	98.64	131.52	263.04	657.60	1315.20	13152	6.00	6.02	6.00
5-0 to 5-6 (1/1/84)	33.87	67.74	101.61	135.48	270.96	677.40	1354.80	13548	6.00	5.96	6.00
5-6 to 6-0 (7/1/84)	34.88	69.76	104.64	139.52	279.04	697.60	1395.20	13952	6.00	6.02	6.00
6-0 to 6-6 (1/1/85)	35.93	71.86	107.79	143.72	287.44	718.60	1437.20	14372	6.00	6.01	6.00
6-6 to 7-0 (7/1/85)	37.01	74.02	111.03	148.04	296.08	740.20	1480.40	14804	6.00	6.00	6.00
7-0 to 7-6 (1/1/86)	38.12	76.24	114.36	152.48	304.96	762.40	1524.80	15248	6.00	5.98	5.99
7-6 to 8-0 (7/1/86)	39.26	78.52	117.78	157.04	314.08	785.20	1570.40	15704	6.00	6.01	6.00
8-0 to 8-6 (1/1/87)	40.44	80.88	121.32	161.76	323.52	808.80	1617.60	16176	6.00	5.98	5.99
8-6 to 9-0 (7/1/87)	41.65	83.30	124.95	166.60	333.20	833.00	1666.00	16660	6.00	6.00	6.00
9-0 to 9-6 (1/1/88)	42.90	85.80	128.70	171.60	343.20	858.00	1716.00	17160	6.00	6.01	5.99
9-6 to10-0 (7/1/88)	44.19	88.38	132.57	176.76	353.52	883.80	1767.60	17676	6.00	5.97	5.97
10-0 2/ (1/1/89)	45.51	91.02	136.53	182.04	364.08	910.20	1820.40	18204	6.00 3/	——	——

1/ Month, day, and year on which issues of Jan. 1, 1974, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 0 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 6.00 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 99

BONDS BEARING ISSUE DATES FROM JAN. 1, 1975, THROUGH AUG. 1, 1976

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	Approximate investment yield (annual percentage rate)		
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000			
Period (years and months after issue)	(1) Redemption values during each half-year period (values increase on first day of period)								(2) From issue date to beginning of each ½-yr. period	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to maturity
									Percent	Percent	Percent
0-0 to 0-6 1/ (1/1/75)	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	——	3.73	6.00
0-6 to 1-0 (7/1/75)	19.10	38.20	57.30	76.40	152.80	382.00	764.00	7640	3.73	5.34	6.25
1-0 to 1-6 (1/1/76)	19.61	39.22	58.83	78.44	156.88	392.20	784.40	7844	4.54	5.00	6.37
1-6 to 2-0 (7/1/76)	20.10	40.20	60.30	80.40	160.80	402.00	804.00	8040	4.69	4.98	6.57
2-0 to 2-6 (1/1/77)	20.60	41.20	61.80	82.40	164.80	412.00	824.00	8240	4.76	5.24	6.83
2-6 to 3-0 (7/1/77)	21.14	42.28	63.42	84.56	169.12	422.80	845.60	8456	4.86	5.39	7.15
3-0 to 3-6 (1/1/78)	21.71	43.42	65.13	86.84	173.68	434.20	868.40	8684	4.95	5.53	7.59
3-6 to 4-0 (7/1/78)	22.31	44.62	66.93	89.24	178.48	446.20	892.40	8924	5.03	5.92	8.29
4-0 to 4-6 (1/1/79)	22.97	45.94	68.91	91.88	183.76	459.40	918.80	9188	5.14	6.09	9.48
4-6 to 5-0 (7/1/79)	23.67	47.34	71.01	94.68	189.36	473.40	946.80	9468	5.25	12.93	12.93
5-0 2/ (1/1/80)	25.20	50.40	75.60	100.80	201.60	504.00	1008.00	10080	6.00	——	——

1/ Month, day and year on which issues of January 1, 1975, enter each period. For subsequent issue months add the appropriate number of months.
2/ Maturity value reached at 5 years and 0 months after issue.

[FR Doc. 79-1412 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979

PART III



DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

■

OFFERING OF UNITED STATES SAVINGS BONDS

SERIES H

Dept. Circular 905
Sixth Revision
Second Amendment

[4810-40-M]

Title 31—Money and Finance

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 332—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES H

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment to the current offering circular for United States savings bonds, Series H, is to grant a second extended maturity period to certain bonds and to show the schedule of interest payments and investment yields for bonds of various issue dates during their first or next extended maturity period.

EFFECTIVE DATE: January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

A.E. Martin III, Attorney-Advisor, Bureau of the Public Debt, (202) 376-0636.

SUPPLEMENTARY INFORMATION: Series H savings bonds have a 10-year original maturity period and, unless sooner redeemed, have an automatic 10-year extended maturity period. Subsequent extensions are customarily granted to them at the time they approach the end of their extended maturity period. During 1979, Series H bonds bearing issue dates of June 1, 1959, through December 1, 1959, will reach the end of their first extended maturity period. This amendment grants a second 10-year extended maturity period to these bonds.

Additionally, the tables contained in the offering circular for Series H savings bonds show the schedule of interest payments and investment yields for bonds of all issue dates. Each table covers particular groupings of issue dates. When the earlier dated bonds in any group reach the end of an original or extended maturity period, it is necessary to publish a new table to reflect the interest payments and investment yields that will apply to their first or next extended maturity period. During 1979, the earlier dated bonds in each of the following groups will enter their first or next extended maturity period:

(1) Table 17—bonds dated June 1 through November 1, 1959;

(2) Table 18—bonds dated December 1, 1959, through May 1, 1960;

(3) Table 37—bonds dated June 1 through November 1, 1969;

(4) Table 38—bonds dated December 1, 1969, through May 1, 1970.

It should be noted that, in some cases, later dated bonds in the above groups will not enter their first or next extended maturity period until after 1979. As extensions have already been irrevocably granted to these bonds, the supplemental tables published below will apply to them, provided there is no intervening change in the interest rate paid on saving bonds.

Accordingly, Section 332.8(a)(2) and (3) of Department of the Treasury Circular No. 905, Sixth Revision, as amended, (31 CFR 332), is hereby further amended, and Tables 17-A, 18-A, 37-A and 38-A are added, as follows:

§ 332.8 Extended terms and improved yields for outstanding bonds.

(a) *Extended maturity periods* * * *

(2) *Bonds with issue dates June 1, 1952, through May 1, 1960.* Owners of Series H bonds with issue dates of June 1, 1952, through May 1, 1960, may retain their bonds for a second extended maturity period of 10 years.

(3) *Bonds with issue dates of June 1, 1960, or thereafter.* Owners of Series H bonds with issue dates of June 1, 1960, or thereafter, may retain their bonds for an extended maturity period of 10 years.

* * * * *

The foregoing amendment was effected under authority of Section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c), and 5 U.S.C. 301.

Since this amendment involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures thereon are unnecessary.

Dated: December 21, 1978.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[4810-40-C]

TABLE 17-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1959

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (6/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (12/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (6/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (12/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (6/1/89)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1959. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.84%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 18-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1959 THROUGH MAY 1, 1960

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/80)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (6/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (12/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (6/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (12/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (6/1/89)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (12/1/89)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1959. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.86%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 37-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1969

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD**			(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
ISSUE PRICE	$500	$1,000	$5,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000			
				PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/79)	$15.00	$30.00	$150.00	6.00	6.00	6.00
1.0 YEARS . . . . (6/1/80)	15.00	30.00	150.00	6.00	6.00	6.00
1.5 YEARS . . . . (12/1/80)	15.00	30.00	150.00	6.00	6.00	6.00
2.0 YEARS . . . . (6/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
2.5 YEARS . . . . (12/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
3.0 YEARS . . . . (6/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
3.5 YEARS . . . . (12/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
4.0 YEARS . . . . (6/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
4.5 YEARS . . . . (12/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
5.0 YEARS . . . . (6/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
5.5 YEARS . . . . (12/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
6.0 YEARS . . . . (6/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
6.5 YEARS . . . . (12/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
7.0 YEARS . . . . (6/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
7.5 YEARS . . . . (12/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
8.0 YEARS . . . . (6/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
8.5 YEARS . . . . (12/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
9.0 YEARS . . . . (6/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
9.5 YEARS . . . . (12/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (6/1/89)	15.00	30.00	150.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.79%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 38-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1969 THROUGH MAY 1, 1970

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD**			(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
ISSUE PRICE	$500	$1,000	$5,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000			
				PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/80)	$15.00	$30.00	$150.00	6.00	6.00	6.00
1.0 YEARS . . . . (12/1/80)	15.00	30.00	150.00	6.00	6.00	6.00
1.5 YEARS . . . . (6/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
2.0 YEARS . . . . (12/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
2.5 YEARS . . . . (6/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
3.0 YEARS . . . . (12/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
3.5 YEARS . . . . (6/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
4.0 YEARS . . . . (12/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
4.5 YEARS . . . . (6/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
5.0 YEARS . . . . (12/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
5.5 YEARS . . . . (6/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
6.0 YEARS . . . . (12/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
6.5 YEARS . . . . (6/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
7.0 YEARS . . . . (12/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
7.5 YEARS . . . . (6/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
8.0 YEARS . . . . (12/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
8.5 YEARS . . . . (6/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
9.0 YEARS . . . . (12/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
9.5 YEARS . . . . (6/1/89)	15.00	30.00	150.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (12/1/89)	15.00	30.00	150.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.83%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

[FR Doc. 79-1413 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART IV



SECURITIES AND EXCHANGE COMMISSION

■

RULE PROPOSAL FOR UNIT INVESTMENT TRUST START-UP EXEMPTIONS AND PROPOSED REVISION OF RULE REGARDING PRICING OF INVESTMENT COMPANY SHARES GENERALLY

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10545, File No. S7-768]

RULE PROPOSAL FOR UNIT INVESTMENT TRUST START-UP EXEMPTIONS AND PROPOSED REVISION OF RULE REGARDING PRICING OF INVESTMENT COMPANY SHARES GENERALLY

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes for public comment a rulemaking to provide "start-up" exemptions for unit investment trusts under the Investment Company Act of 1940. It also proposes an amendment to a rule under that Act regarding pricing of investment company shares generally. Within the last six years there has been a significant increase in the number of applications for exemptions from the Investment Company Act of 1940 filed by unit investment trusts investing primarily in corporate bonds, municipal bonds, and Ginnie Mae obligations. These applications usually seek relief from provisions and rules pertaining to minimum net worth requirements, frequency of capital gains distributions, and forward pricing. These so-called "start-up" exemptions are appropriate subjects for exercise of the Commission's rulemaking authority because of the specific, repetitious and non-controversial nature of the applications.

The proposed rules were developed by the Division of Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies. The proposed rules will relieve certain unit investment trusts and the Commission of the substantial burden of filing and processing, respectively, these applications. In addition, since with minor exceptions the proposed rules are merely a codification of existing orders in this area, unitholders of unit investment trusts that operate in reliance on the proposed rules will enjoy the same protections that unit holders of such trusts which operate pursuant to Commission order presently enjoy.

The Commission also proposes amending that portion of Rule 22c-1 under the Investment Company Act of 1940 which ties to the close of the New York Stock Exchange the time for pricing *all* securities owned by investment companies generally even though they are not (and could not be) listed for trading on that exchange. The amendment the Commission proposes represents a codification of existing orders which have dealt with this problem.

DATE: Comments must be received by Fedruary 23, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. (Refer to File No. S7-768.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (202) 755-1547.

SUPPLEMENTARY INFORMATION: The Commission today proposed for public comment new Rule 14a-3 and amendments to Rules 19b-1 (17 CFR 270.19b-1) and 22c-1 (17 CFR 270.22c-1) providing "start-up" exemptions for certain unit investment trusts. In addition, the Commission has proposed revision of Rules 22c-1 regarding pricing of investment company shares generally.

Except for money market funds, no type of investment company has enjoyed greater growth in new registrants recently than unit investment trusts ("Trusts") specializing in debt obligations.[1] Unlike a management investment company, such a Trust typically takes the form of a series of entities,[2] each of which holds a specific portfolio until maturity, thus "locking-in" the particular yields obtained for the life of the various obligations.[3]

At the Trust's inception, its organizer ("Sponsor") deposits with the trustee more than $100,000 principal amount of Trust Debt Securities (or delivery statements relating to contracts for the purchase of such securities, together with funds represented by cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase). Simultaneously with such deposit, the trustee delivers to the Sponsor those Trust units which are to be offered to the public pursuant to a registration statement under the Securities Act of 1933 (15 U.S.C. 77a et seq.).[4]

During the initial offering period the evaluator for the Trust ("Evaluator") makes a daily evaluation of the Trust Debt Securities held by the Trust. The Sponsor sells the units at a daily price based on the aggregate offering prices of the Trust Debt Securities as computed by the Evaluator ("offering side evaluation"), plus a sales charge.[5] after the initial offering period, the Trust no longer offers units to the public.

Subsequent to the initial offering period, the Sponsor customarily maintains a secondary market for the repurchase and resale of Trust units so that unitholders have a marketplace for purchase and sale of their securities without disturbing the portfolio of securities held by the Trust. During this time, the Evaluator makes an evaluation of the Trust Debt Securities held by the Trust on the last business day of each week. The offering side evaluation so computed is used by the Sponsor in determining its repurchase and resale prices during the following week, Thus, after the initial offering period there is no daily pricing of units for purchase or sale in the secondary market.

Since the repurchase price is based on the offering side evaluation, the Sponsor will usually pay more for Trust units than the price at which the underlying Trust Debt Securities could be sold in the market, i.e., the "bid" price. Although the Sponsor is not statutorily obligated to maintain a secondary market, or purchase units at a price based on the offering side evaluation, by so doing it performs a sound business practice, in that its dealer activities prevent (or a least retard indefinitely) depletion of Trust

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[1] In addition to debt obligations, these Trusts often invest in a limited number of units of a previously issued Trust series. The relief provided by the proposed rules would be available, generally, to Trusts which invest in both debt obligations and interests in such previously issued units. Specifically, the relief provided by the proposed Rulemaking is limited to Trusts engaged exclusively in the business of investing in trust securities ("Trust Debt Securities"). That term is defined for purposes of the rules as including—

(1) Interest bearing obligations issued by a corporation;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Subject to certain conditions, units of a previously issued series of the Trust.

[2] E.g., Trust series A, B, C, etc.

[3] Under certain circumstances, however, the Trust Debt Securities held in the Trust's portfolio may be sold or redeemed. The proceeds from such dispositions are usually distributed to the unitholders of the Trust, and in such case the unitholder may realize a capital gain on his investment.

[4] No units are issued after this initial issuance. Each unit of the Trust represents an undivided interest in the securities held by the Trust. Units are redeemable, and remain outstanding until redeemed or until the termination of the Trust.

[5] The offering price of the Trust Debt Securities is the price at which such securities, if available, could have been purchased directly by the public. The Evaluator, thus, makes the portfolio evaluations required by Section 2(a) (41) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a) (41).

assets through redemptions.[6] The Sponsor also benefits through receipt of a Sales charge which it imposes pursuant to Section 22(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-22(d)) ("Act") on the resale of Trust units.

Because of its special organization and operation, a Trust needs certain exemptions from the Act pertaining to minimum net worth requirements,[7] frequency of capital gains distributions,[8] and forward pricing.[9] Upon its organization, therefore, the Trust must file an application for an order seeking those exemptions.

The Commission has long since decided the legal and policy questions presented by these applications and over the years has routinely granted the requested exemptions.[10] However, even though these applications do not usually present any difficult legal or factual issues, a substantial amount of Commission time is consumed in processing them because of the large number which are filed. In view of the specific, repetitious, and non-controversial nature of these applications, the Commission believes it would be more efficient to adopt rules codifying these "start-up" exemptions rather than to continue to handle individual applications.

The proposed rulemaking, if adopted, would relieve these Trusts and the Commission of the burden of filing and processing, respectively, these applications. In addition, since (with minor exceptions) the proposed rules incorporate the terms and conditions of existing orders and no-action positions taken by the Division of Investment management in this area, unitholders of Trust that operate in reliance on the proposed rules would enjoy the same protections that unitholders of Trusts, which operate pursuant to Commission order, presently enjoy.

[6] The price at which units are redeemed is based on the "bid" side evaluation of the Trust Debt Securities rather than the offering side evaluation, since use of the latter would tend to dilute the remaining units of the Trust. Redemptions by the Trust must, of course, be based on the price the Trust would receive if it chose to sell the portfolio securities—use of any other price would be unfair to the remaining unitholders, and would not comply with the "forward pricing" requirements of Rule 22c-1. The unitholder desiring to sell his Trust units, therefore will normally sell his units to the Sponsor because by doing so he will realize the spread in the Trust Debt Securities market i.e., the difference between the "asked" and "bid" price of the Trust Debt Securities.

[7] Section 14(a) (15 U.S.C. 80a-14.

[8] Rule 19b-1.

[9] Rule 22c-1.

[10] See, e.g., Investment Company Act Release No. 8042 (October 18, 1973) (order granted to the GNMA Mortgaged-Backed Security Fund).

SECTION 14(a)

Section 14(a) of the Act, in part, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless, prior to the public offering: (1) The company has a net worth of a least $100,000 or (2) provision is made in connection with the public offering that firm commitments for a net worth of $100,000 have been obtained from not more than twenty-five responsible persons or the entire proceeds received, including sales charge, will be refunded.[11]

The Commission has interpreted Section 14(a) of the Act to mean that the initial capital investment in an investment company must have been made without any intention, when the investment was made, to redeem or dispose of such investment.[12] Thus, even though the Sponsor deposits more than $100,000 principal amount of Trust Debt Securities (or delivery statements relating thereto and funds for the purchase thereof) with the trustee prior to making a public offering of Trust units, an exemption from Section 14(a) of the Act is still required since, at the time of such deposit, the Sponsor intends to sell the units it receives from the trustee to the public and reduce to zero its own capital investment.

Despite the lack of a continuing or bona fide investment on the part of the Sponsor, exemptions from Section 14(a) of the Act have been granted in recognition that, once the units are sold, a Trust requires much less commitment on the part of the Sponsor than does a management investment company. Moreover, to receive the order it seeks, the Sponsor must agree to two undertakings requiring, generally, that each purchaser of Trusts units receive his pro rata share of the net worth of the Trust (plus a refund of all sales charges paid on the purchase of Trust units) in the event that the Trust fails to become a going concern.

Specifically, the first undertaking, which is modeled after Section 14(a)(3)(C) of the Act, provides, generally that if within 90 days from the time that the Trust's registration statement becomes effective under the Securities Act of 1933 the net worth of the Trust declines to less than $100,000,[13] or the Trust is terminated,[14] then the Sponsor for the Trust must distribute to each investor his pro rata share of the net worth of the Trust, plus any sales charge paid by the in-

[11] Section 14(a) of the Act provides in part:

(a) No registered investment company organized after the date of enactment of this title, and no principal underwriter for such a company, shall make a public offering of securities of which such company is the issuer unless—

(1) Such company has a net worth of at least $100,000;

* * * * *

(3) Provision is made in connection with and as a condition of the registration of such securities under the Securities Act of 1933 which in the opinion of the Commission adequately insures (A) that after the effective date of such registration statement such company will not issue any security or receive any proceeds of any subscription for any security until firm agreements have been made with such company by not more than twenty-five responsible persons to purchase from it securities to be issued by it for an aggregate net amount which plus the then net worth of the company, if any, will equal at least $100,000; (B) that said aggregate net amount will be paid in to such company before any subscriptions for such securities will be accepted from any persons in excess of twenty-five; (C) that arrangements will be made whereby any proceeds so paid in, as well as any sales load, will be refunded to any subscriber on demand without any deduction, in the event that the net proceeds so received by the company do not result in the company having a net worth of at least $100,000 within ninety days after such registration statement becomes effective.

[12] *Automation Shares, Inc.*, 37 SEC 771 (1957). That case was the result of an investigation of Automation Shares, Inc., an open-end diversified, management investment company, which indicated that the initial shareholders of that fund had been asked by the fund's Sponsor to purchase fund shares merely for the purpose of qualifying the fund under Section 14(a)(3) of the Act; that the Sponsor had promised such shareholders consideration for the temporary use of their money; and that such shareholders had purchased shares with the intention of redeeming them after the Securities Act of 1933 registration statement of the fund had become effective. The Commission said in that case that sales made pursuant to such a scheme would not meet the requirement of Section 14(a) if the initial $100,000 of net worth of a fund were loaned or advanced only as a temporary accommodation since the objective of the section would thus be thwarted. "The $100,000 of net worth required by Section 14(a) must be provided by shareholders with a bona fide investment purpose without any present intention to dispose of the investment." Id. at 774.

[13] Such a decline might occur, for example, in the event of an adverse change in market, revenue or credit factors affecting the Trust Debt Securities held by the Trust.

[14] The conditions upon which termination may occur vary among Trusts. See, e.g., Investment Company Act Release Nos. 10327 (termination upon 100% agreement of unitholders or in the event the value of the Trust assets falls below a certain specified amount, upon direction of the Sponsor to the trustee or by the trustee without such direction), and 10022 (termination upon 66⅔% agreement of the unitholders or, in the event the value of the assets of the Trust falls below 33⅓% of the principal amount of the Trust Debt Securities initially deposited with the Trust, upon the direction of the Sponsor to the trustee), dated July 18, 1978, and November 22, 1977, respectively.

vestor for his Trust units. [15] Thus, this undertaking encompasses those situations where, for a variety of possible reasons, the Trust declines in value to less than $100,000, or is terminated, shortly after its inception.

In addition, if redemptions by the Sponsor or underwriter of unsold units result in the Trust's having a net worth of less than 40% of the principal amount of Trust Debt Securities (or funds) initially deposited in the Trust, pursuant to the second undertaking each unitholder of the Trust is entitled to receive his pro rata share of the Trust assests, plus any sales charges paid by the unitholder for the purchase of his units. [16] It should be noted that unlike, the first undertaking, there is no 90 day time limit imposed on the second undertaking's applicablility. [17]

[15] See, e.g., Investment Company Act Release Nos. 10294 and 10253, dated June 27, 1978, and May 24, 1978, respectively.

[16] See, e.g., Investment Company Act Release Nos. 10327 and 10294, dated July 18, 1978, and June 27, 1978, respectively.

[17] The relief provided by the proposed rule would be available to Trusts engaged exclusively in the business of investing in Trust Debt Securities. That term is defined by the proposed rule as including, among other things, units of a previously issued series of a Trust, providing that:

(i) The aggregate principal amount of units of existing series so deposited will not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited will not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units will be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the Trust Debt Securities underlying units of an existing series deposited in a new series will not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be terminated voluntarily;

(v) Units of existing series so deposited will constitute units purchased by the Sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) The Sponsor will deposit units of existing series in the new series without a sales charge.

These conditions have their genesis in no-action positions taken by the Division. See, e.g., Insured Municipals Income Trust; Cardinal Tax-Exempt Bond Fund, and Municipal Investment Trust Fund, public availability dates August 10, 1977, March 14, 1977, and October 25, 1975, respectively. The first two conditions relate to Section 12(d)(1)(A) of the Act (15 U.S.C. 80a-12(d)(1)(A)) which provides, in part, that it is unlawful for any registered investment company (the "acquiring company") to purchase or otherwise acquire any security issued by any other investment company (the "acquired company"), if the acquiring company immediately after such purchase or acquisition owns in the aggregate (1) securities issued by the acquired company having an aggregate value in excess of 5 percent of the value of the total assests of the acquiring company, or (2) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10 percent of the value of the total assets of the acquiring company.

Subparagraph (vi), in effect, recognizes that under these specified circumstances the Sponsor may deposit such units without violating Section 22(d) of the Act. That section provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus.

Rule 19b-1

Rule 19b-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. [18] Paragraph (b) of the Rule contains a similar prohibition for a company which is not a "regulated investment company," such as a Trust.

Under certain circumstances, discussed below, Trust Debt Securities held by the Trust may be sold or redeemed. The proceeds from such dispositions are usually distributed to the Trust unitholders, although reinvestment of proceeds has been allowed. [19] In those cases where the proceeds are distributed, the unitholder may realize a capital gain on his investment. [20] If the Trust wishes to make more than one capital gains distribution per taxable year, which could well be the case where an investment company's portfolio is concentrated in fixed income securities, an exemption from the provisions of Rule 19b-1 is required.

Rule 19b-1 was designed to remove, inter alia, the temptation to realize capital gains on a frequent and regular basis, i.e., to "churn" the portfolio. Rule 19b-1 also "cures" attempts by the investment company's investment adviser to "time" distributions in a manner designed to be advantageous to particular shareholders and mitigates improper sales practices related to the distribution of such gains. Exemptions from the Rule have been granted in five situations, nevertheless, allowing distributions of principal constituting capital gains to be made more frequently than once per taxable year. In each such situation the events which give rise to the capital gains distribution are substantially independent of any action by the Sponsor and the trustee:

(1) An issuing authority's calling or redeeming a Trust Debt Security held by the Trust; [21]

(2) The sale of a Trust Debt Security in order to provide funds required for the redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution; [22]

(3) The sale of the a Trust Debt Security in order to maintain the qualification of the Trust as a "regulated investment company" under section 851 of the Internal Revenue Code; [23]

(4) Regular distributions of principal and prepayment of principal on Trust Debt Securities; or [24]

[18] Rule 19b-1 provides, in part:

(a) No registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code of 1954 (Code) shall distribute more than one capital gain dividend (distribution), as defined in section 852(b)(3)(C) of the Code, with respect to any 1 taxable year of the company, other than a distribution pursuant to section 855 of the Code which is supplemental to the prior distribution with respect to the same taxable year of the company and which does not exceed 10 percent of the amount of such prior distribution.

(b) No registered investment company which is not a "regulated investment company" as defined in section 851 of the Code shall make more than one distribution of long-term capital gains, as defined in the Code, in any one taxable year of the company: *Provided*, That a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

[19] See, e.g., Investment Company Act Release No. 10327 (July 18, 1978).

[20] Such would be the case if the value of the Trust Debt Securities redeemed or sold had increased since the date of initial deposit.

[21] See, e.g., Investment Company Act Release No. 10327, dated July 18, 1978.

[22] See, e.g., Investment Company Act Release No. 10022, dated November 22, 1977.

[23] See, e.g., Investment Company Act Release No. 10329, dated July 19, 1978.

[24] See, e.g., Investment Company Act Release No. 10327, dated July 18, 1978. This type of distribution is made by Trusts invested in Ginnie Mae obligations, where the underlying mortgagor is permitted to prepay principal on his individual mortgage. The term Ginnie Mae obligations refers to mortgage-backed securities of the modified pass through type which are fully guaranteed as to principal and interest by the Government National Mortgage Association. Prepayments are not known to or discoverable by the investment company until about eight days after the prepayment occurs and is reported forward. However, to date such prepayments, although irregular in amount and amplitude, have not materially affected the net asset value of fund shares on the day payment is actually made or is actually received.

Footnotes continued on next page

The sale of Trust Debt Securities in order to maintain the investment stability of the Trust.[25]

Another danger which Rule 19b-1 was designed to prevent, i.e., confusion on the part of investors which might arise if capital gains distributions are commingled with distributions of ordinary income, is substantially alleviated by requiring that capital gains distributions be clearly described as such in a report to the unitholders which accompanies the distribution.[26]

RULE 22c-1

Rule 22c-1 provides, in part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.[27]

The price at which Trust units are repurchased and resold by the Sponsor in the secondary market is based on the offering side evaluation of the Trust Debt Securities held by the Trust, as computed by the Evaluator on the last business day of each week, effective for all sales made during the *following* week. This pricing procedure clearly is in contravention of Rule 22c-1 since the pricing of units is done once a week for all purchases and sales in the ensuing week. In addition, the repurchasing of units by the Sponsor at a price in excess of the redemption value of those units may conflict with Rule 22c-1(a) which, in pertinent part, states that "no principal underwriter of, or dealer in, any such security shall * * * repurchase any such security except at a price based on the current net asset value of such security." Finally, if the evaluation takes place at a time other than the time of the close of trading on the New York Stock Exchange, then Rule 22c-1(b) has not been met, as would be very likely for all securities other than equity securities listed and traded on the New York Stock Exchange.

Investment Company Act Release No. 5519, in which Rule 22c-1 was adopted, cites two purposes for Rule 22c-1: (1) to eliminate any dilution in the value of investment company shares; and (2) to eliminate certain speculative trading practices.

Dilution through the sale of redeemable securities at a price below their net asset value may occur, for example, through the practice of selling securities for a certain period of time at a price based upon a previously established net asset value. This practice permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the net asset value of investment company shares by purchasing such shares at a price which does not reflect the increase.[28]

Although a Trust Sponsor's secondary market activities would involve use of backward pricing in violation of Rule 22c-1, exemptions from Rule 22c-1 have been granted by the Commission recognizing that those activities, being completely independent of the Trust and in no way involving the assets of the Trust, cannot result in dilution of existing unitholders' interests in the Trust.[29] Moreover, to protect investors who sell or buy units from the Sponsor in the secondary market from more than nominal changes in unit value between the time of the transaction and the time at which the Sponsor's buying and selling price of units is determined, the Sponsor is required to adopt a procedure whereby the Evaluator, without necessarily rendering a formal evaluation, will provide estimated evaluations on trading days.

In the case of repurchase, the Evaluator will indicate by letter to the Sponsor that, in the Evaluator's opinion, the current bid price is not higher than the offering side evaulation, computed on the last business day of the previous week. If the Evaluator cannot make this statement, the Sponor must order a full evaluation.[30] By requiring a full evaluation in this situation, the investor who sells Trust units in the secondary market is ensured of receiving at least the current redemption value for the units he sells. Thus, investors desiring to sell their units (rather than present them for redemption to the Trust) cannot possibly be injured by the Sponsor's secondary market activity.

In the case of resale of units in the secondary market, the Sponsor represents that, if the Evaluator cannot state that the offering side evaluation, computed on the last business day of the previous week, is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of Trust Debt Securities) greater than what the current offering price would be if Rule 22c-1 were complied with, a full evaluation will be ordered.[31] This undertaking is designed to cover the situation where the investor offers to purchase units on a day when, due to a decline in the market, the offering price of the units is substantially less than the Sponsor's resale price (based on the offering side evaluation computed on the last business day of the previous week).[32] By requiring a full evaluation in the event the offering side evaluation has decreased by an amount greater than one-half of one percent, the investor who buys units in the secondary market is insured that the price he pays approximates (within one-half of one percent) the current offering price of the units.

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[25] See, e.g., Investment Company Act Release No. 10327, dated July 18, 1978. Sales of Trust Debt Securities to maintain "investment stability" are those sales made to prevent deterioration in the value of Trust Debt Securities when certain factors exist. These factors include a default in the payment of principal or interest, an action involving the issuer of the Trust Debt Securities which adversely affects such issuer's ability to continue payment of principal or interest on its Trust Debt Securities, or an adverse change in the market, revenue or credit factors affecting the investment stability of the Trust Debt Security. The proposed rulemaking which modifies slightly the above discussed definition of investment stability, defines that term to mean sales made to prevent deterioration of the value of Trust Debt Securities when one or more of the following factors exist: (1) A default in the payment in the principal or interest on a Trust Debt Security, (2) An action involving the issuer of a Trust Debt Security which adversely affects such issuer's ability to continue payment of principal or interest on its Trust Debt Securities, or (3) A change in the market, revenue or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its Trust Debt Securities.

[26] See, e.g., Investment Company Act Release Nos. 10327 and 10253, dated July 18, 1978, and May 24, 1978, respectively.

[27] Rule 22c-1 provides:

(a) No registered investment company issuing any redeemable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

(b) For the purposes of this section, the current net asset value of any such security shall be that computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on such exchange.

[28] Investment Company Act Release No. 5519 at 1 (October 16, 1968).

[29] Trust assets would only be involved in the case of a redemption; in such event, there would be full compliance with Rule 22c-1. Moreover, there is no danger of speculative trading of Trust units because there is forward pricing daily while the Trust is being sold—the possibility of organized arbitrage against a fixed income trust is negligible where the trust is not selling new shares regularly.

[30] See, e.g., Investment Company Act Release Nos. 10327 and 10085, dated July 18, 1978 and January 6, 1978, respectively.

[31] See, e.g., Investment Company Act Release Nos. 10327 and 10085, dated July 18, 1978 and January 6, 1978, respectively.

[32] Such a decline could be caused, for example by a change in the interest rate or quality rating for that type of security.

PROPOSED RULES

A. PROPOSED RULE 14A-3

Proposed Rule 14a-3 would provide that, subject to certain conditions, a registered Trust engaged exclusively in the business of investing in Trust Debt Securities, and any principal underwriter for the Trust, is exempt from Section 14(a) of the Act with respect to a public offering of Trust units. The conditions which must be met in order for the relief offered by the Rule to apply are as follows:

(1) At the commencement of the public offering, the Trust holds at least $100,000 principal amount of Trust Debt Securities;

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the Sponsor for the Trust must (i) refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the Sponsor (or from any underwriter or dealer participating in the distribution), and (ii) liquidate the Trust Debt Securities held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The Sponsor must instruct the trustee when the Trust Debt Securities are deposited in the Trust that, in the event that redemptions by the Sponsor or underwriter (if any) of units constituting a part of the unsold units results in the Trust's having a net worth of less than 40 percent of the principal amount of the Trust Debt Securities initially deposited in the Trust, (i) the trustee shall terminate the Trust and distribute the assets to the unitholders of the Trust, and (ii) the Sponsor for the Trust must refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units form the Sponsor or from any underwriter or dealer participating in the distribution.

The proposed rule defines the term Trust Debt Securities to include:[33]

(1) Interest bearing obligations issued by a corporation;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Units of a previously issued series of the Trust: *Provided*, That: (i) the aggregate principal amount of units of existing series so deposited will not exceed 10% of the aggregate principal amount of the portfolio of the new series; (ii) the aggregate principal amount of units of any particular existing series so deposited will not exceed 5% of the aggregate principal amount of the portfolio of the new series; (iii) no units will be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited; (iv) the value of the Trust Debt Securities underlying units of an existing series deposited in a new series will not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated; (v) units of existing series so deposited will constitute units purchased by the Sponsor as market maker and not remaining unsold units from the original distribution of such units; and (vi) the Sponsor will deposit units of existing series in the new series without a sales charge.

These conditions are generalizations of specific conditions present in no-action letters that have dealt with this issue. Since the specific conditions in those letters addressed particular factual situations, they are not suitable for use in the proposed Rule. The remainder of proposed Rule 14a-3 is merely a codification of existing exemptive orders in this area.

The Commission has recently become concerned that depositing units of a previously issued series of a Trust in the portfolio of a new series of the same Trust may result in the layering of trustee and Evaluator's fees. The Commission, therefore, specifically invites comment on any economic impact of that practice. Moreover, to the extent that this practice exists and may be unfair to unitholders of Trusts that hold such units in their portfolio, the Commission also requests comment on what steps would be necessary and appropriate to alleviate any unfairness.

B. PROPOSED AMENDMENTS OF RULE 19b-1

Proposed Rule 19b-1(c) and (d)[34] would allow a Trust engaged exclusively in the business of investing in Trust Debt Securities (as defined in Proposed Rule 14a-3(b)) to make more than one capital gains distribution in any one taxable year: *Provided*, That:

(1) The capital gain distribution is a result of (i) an issuer's calling or redeeming the Trust Debt Security held by the Trust, (ii) the sale of a Trust Debt Security to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution, (iii) sale of a Trust Debt Security to maintain qualification of the Trust as a "regulated investment company" under Section 851 of the Internal Revenue Code, (iv) regular distributions of principal and prepayment of principal on Trust Debt Securities, or (v) sale of a Trust Debt Security to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholder's which accompanies each such distribution.

A sale made in order to maintain the "investment stability" of the Trust is defined by the proposed amendments to mean a sale made to prevent deterioration in the value of the Trust Debt Securities held by the Trust when one or more of the following factors exists: (1) A default in the payment or principal or interest on a Trust Debt Security, (2) an action involving the issuer of a Trust Debt Security which adversely affects the ability of such issuer to continue payment of principal or interest on a Trust Debt Security, or (3) an adverse change in the market, revenue, or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its Trust Debt Securities. This definition, it should be emphasized, modifies slightly the term "investment stability" as defined in the existing exemptive orders under Rule 19b-1, but in a more general manner which appears to place more ascertainable limits on when a Trust Debt Security can be sold.

Other than the above discussed modification, proposed Rule 19b-1(c) and (d) is merely a codification of existing exemptive orders in this area.

C. PROPOSED RULE 22C-1

Proposed Rule 22c-1, which would expand existing Rule 22c-1, would provide, in pertinent part, that a Sponsor of a Trust engaged in the business of investing in Trust Debt Securities may sell and repurchase Trust units in the secondary market at a price based on the offering side evaluation of the Trust Debt Securities in the Trust portfolio, determined on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the Sponsor receives a letter from a qualifed Evaluator[35] stating, in its opinion, that:

[33] By use of the word "include" the Commission has defined the Term Debt Securities in a manner which would allow the Division of Investment Management, in appropriate cases, to specify by no-action letters whether particular securities are within its scope.

[34] The proposed amendments to Rule 19b-1 would not change paragraphs (a) and (b) of existing Rule 19b-1. Paragraph (c) of the existing Rule would be relettered paragraph (e), but otherwise remains unchanged.

[35] The Rule would define a "qualified Evaluator" to mean any Evaluator which represents it is in a postion to determine, on the basis of an informal evaluaton of the Trust Debt Securities held in the Trust portfolio,

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(1) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week, and

(2) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of Trust Securities) greater than the current offering price.

That part of proposed amendment of Rule 22c-1 which deals with the Sponsor's secondary market activities is merely a codification of existing exemptive orders in this area.

The Commission believes that it would be very useful also to amend the existing portion of Rule 22c-1(b) which has caused numerous interpretive problems in that it ties to the close of the New York Stock Exchange the time for pricing *all* securities even though they are not (and could not be) listed for trading on that exchange, i.e., bank certificates of deposit, municipal bonds, and other types of money market instruments. Accordingly, paragraph (b) of Rule 22c-1 would be amended to require forward pricing for all portfolio securities as of the close of the primary trading market in which they are traded. The Commission specifically invites comment on whetner this amendment, which represents a codification of existing orders in this area,[36] provides an appropriate standard for all securities which might be present in an investment company portfolio..

TEXT OF RULEMAKING

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by—

I. Adding § 270.14a-3 as follows:

§ 270.14a-3 Exemption from section 14(a) of the Act for certain registered unit investment trusts and their principal underwriters.

(a) A registered unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in trust debt securities, and any principal underwriter for the Trust, shall be exempt from section 14(a) of the Act with respect to a public offering of Trust units: *Provided*, That:

(1) At the commencement of such offering the Trust holds at least $100,00 principal amount of trust debt securities (for delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities);

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.) the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the sponsor for the Trust shall—

(i) Refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the sponsor (or from any underwriter or dealer participating in the distribution), and

(ii) Liquidate the trust securities held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The sponsor instructs the trustee when the trust debt securities are deposited in the Trust that, in the event that redemptions by the sponsor or any underwriter of units constituting a part of the unsold units results in the Trust having a net worth of less than 40 percent of the principal amount of the trust debt securities (or delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities) initially deposited in the Trust—

(i) The trustee shall terminate the Trust and distribute the assets thereof to the unitholders of the Trust, and

(ii) The sponsor for the Trust shall refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units from the sponsor or from any underwriter or dealer participating in the distribution.

(b) For the purposes of determining the availability of the exemption provided by the foregoing subsection, the term "trust debt securities" shall include:

(1) Interest bearing obligations issued by a corporation;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Units of a previously issued series of the Trust; *Provided*, That:

(i) The aggregate principal amount of units of existing series so deposited shall not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited shall not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units shall be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the trust debt securities underlying units of an existing series deposited in a new series shall not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;

(v) Units of existing series so deposited shall constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) The sponsor shall deposit units of existing series in the new series without a sales charge.

II. Redesignating existing paragraph (c) of § 270.19b-1 as (e) and adding new paragraphs (c) and (d) as follows:

§ 270.19b-1 Frequency of distribution of capital gains.

* * * * *

(c) The provisions of this rule shall not apply to a unit investment trust (hereinafter referred as the "Trust") engaged exclusively in the business of investing in trust debt securities (as defined in Rule 14a-3(b) (17 CFR 270.14a-3(b)) under this Act); *Provided*, That:

(1) The capital gain distribution is a result of—

(i) An issuer's calling or redeeming a trust debt security held by the Trust,

(ii) The sale of a trust debt security by the Trust to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution,

(iii) The sale of a trust debt security to maintain qualification of the Trust as a "regulated investment company" under Section 851 of the Internal Revenue Code of 1954, as amended,

(iv) Regular distributions of principal and prepayment of principal on trust debt securities, or

(v) The sale of a trust debt security in order to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholder which accompanies each such distribution.

(d) For purposes of the foregoing paragraph, sales made to maintain the

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Footnotes continued from last page

whether (i) the current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and (ii) the offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of Trust Debt Securities) greater than the current offering price.

[36] See, e.g., G.T. Pacific Fund, Inc., Investment Company Act Release No. 9748 (May 3, 1977).

investment stability of the Trust means sales made to prevent deterioration of the value of the trust debt securities held in the Trust portfolio when one or more of the following factors exist:

(1) A default in the payment of principal or interest on a trust debt security;

(2) An action involving the issuer of a trust debt security which adversely affects the ability of such issuer to continue payment of principal or interest on its trust debt securities; or

(3) A change in market, revenue or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its trust debt securities.

* * * * *

(Existing paragraph (c) is redesignated paragraph (e).)

III. Amending paragraphs (a) and (b) of § 270.22c-1 as follows:

§ 270.22c-1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) No registered investment company issuing any redemmable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security: *Provided*, That:

(1) This paragraph shall not prevent a sponsor of a unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in trust debt securities (as defined in Rule 14a-3(b) (17 CFR 270.14a-3(b)) from selling or repurchasing Trust units in a secondary market at a price based on the offering side evaluation of the trust debt securities in the Trust's portfolio, determined at any time on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the sponsor receives a letter from a qualified evaluator stating, in its opinion, that:

(i) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week; and

(ii) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week, is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of trust debt securities) greater than the current offering price.

(b) For the purposes of this rule, (1) the current net asset value of any such security shall be computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on the relevant primary trading market in which each portfolio security is traded, and (2) a "qualified evaluator" shall mean any evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the trust debt securities held in the Trust's portfolio, whether—

(i) The current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and

(ii) The offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of trust debt securities) greater than the current offering price.

STATUTORY BASIS

New Rule 14a-3 is promulgated pursuant to the provisions of Sections 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act. Amended Rule 19b-1 is promulgated to the provisions of Sections 6(c), 19(b) (15 U.S.C. 80a-19(b)) and 38(a) of the Act. Amended Rule 22c-1 is promulgated pursuant to the provisions of Sections 6(c), 22(c) (15 U.S.C. 80a-22(c)) and 38(a) of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 8, 1979.

[FR Doc. 79-1406 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART V



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

ENDANGERED SPECIES CONVENTION

U.S. Positions, Foreign Proposals, Procedure for Changing the Appendices, and Status of Native Species Protected

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Procedure for Changing the Appendices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period on proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) contains procedures for Party nations to follow in amending the appendices. The Convention is implemented in the United States through regulations in 50 CFR, Part 23. Although amendment of the list of wildlife and plant species in Appendices I and II is a procedure involving international agreement, and therefore is not a subject entirely appropriate for Federal rulemaking, the Service has attempted to provide for maximum public input in determining United States proposals or positions on foreign proposals.

By the close of the previous comment period on May 23, 1978, the Service received only eight comments on proposed rules issued on March 24, 1978 (43 FR 12349-12351). These proposed rules would amend Part 23 to establish procedures for public participation in changing the Convention appendices. Recent controversy over proposals to amend Appendices I and II, which was expressed at a public meeting held on November 28, 1978, has generated requests to extend the period for public comment. Consistent with its policy of encouraging public involvement, the Service has determined to extend the comment period on these proposed rules for an additional 30 days.

DATES: All relevant comments received by February 15, 1979, will be considered in developing the final rule.

ADDRESSES: Comments on the proposed rule should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. All comments received will be available for public inspection during normal business hours in Room 616, 1000 N. Glebe Road, Arlington Virginia.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418. Copies of the March 24th proposed rule are available upon request.

Dated: January 8, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-1457 Filed 1-15-79; 8:45 am]

[4310-55-M]

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Status of Native Species Protected

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service has submitted proposals to amend Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249). These proposals, which resulted from a survey of the status of native United States wildlife now included in the appendices, have been circulated to other nations for consideration at the second meeting of the Conference of the Parties. The substance of those proposals has been published in the FEDERAL REGISTER on November 27, 1978 (43 FR 55314-55319) and is open to public comment until January 15, 1979. The purpose of the present notice is to describe future actions that the Services and the U.S. delegation to the meeting of the Parties will take on these proposals, and to describe the plans for future public participation in determining the course of these actions.

DATES: The Service plans to publish a notice in the FEDERAL REGISTER on or about January 25, 1979, stating its determinations concerning United States proposals to amend the Convention appendices. Public meetings to present these determinations and discuss other matters relating to the meeting of the Parties will be held on January 31-February 1, 1979, and March 8, 1979.

ADDRESS: Please send correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION: The general background for the survey of native species that led the Service to propose amendments to Appendices I and II is explained in FEDERAL REGISTER notices of March 6, 1978 (43 FR 9168-9172) May 3, 1978 (43 FR 19176-19191), and November 27, 1978 (43 FR 55314-55319).

The purpose of these notices has been to inform and involve the public in the development of appropriate proposals to amend Appendices I and II, recognizing that the amendment process is a function of foreign affairs where final decisions are made by agreement of Party nations and not by the United States alone.

Proposals to amend Appendices I and II that resulted from the survey of native species were submitted to the Secretariat for the Convention on October 5, 1978, and they were circulated along with proposals from other Parties by the Convention's Secretariat to all Parties on November 24, 1978. The proposals will be considered at the second meeting of the Conference of the Parties on March 19-30, 1979, in San Jose, Costa Rica. The role of the United States delegation to the meeting will be to present and negotiate the United States positions. To the extent that issues can be anticipated, the delegation will advance positions that have been developed prior to the meeting. Public participation has been sought at public meeting on May 31, 1978, and November 28, 1978, through requests to the public for written comments on the various issues, and through the series of FEDERAL REGISTER notices on the species survey.

The schedule for the process of future public participation is as follows. Notices of the time and place of the public meetings will be published separately in the FEDERAL REGISTER.

January 10, 1979 (approximately)—Publication in the FEDERAL REGISTER of two additional notices: One will reopen for 30 days the comment period on proposed procedures for developing U.S. positions on amendment of the appendices; a second will publish for public comment the proposals by other Party nations for amendment of the appendices.

January 15, 1979—Close of the public comment period on tentative U.S. proposals to amend the appendices.

January 25, 1979—Publication in the FEDERAL REGISTER of a determination on U.S. proposals to amend the appendices.

January 31, 1979—Public meeting to brief interersted citizens and organizations on U.S. proposals to amend the appendices and to discuss foreign proposals.

February 1, 1979—Public meeting to brief interested citizens and organizations on tentative U.S. positions on other issues of negotiation and to elicit additional public comment on these positions.

February 28, 1979 (approximately)—publication in the FEDERAL REGISTER of a determination on foreign proposals to amend the appendices.

March 8, 1979—Public meeting to brief interested citizens and organizations on the final U.S. negotiating positions on all items scheduled for discussion at the meeting of the Parties.

Questions have been raised by the public concerning the finality of the Service's determination on U.S. proposals to amend the appendices. It is the intention of the Service that the determinations to be published in the FEDERAL REGISTER on January 25, 1979, will represent the final views of the Service on the status of these species when evaluated in terms of the criteria for listing and delisting (the so-called Bern criteria). The negotiating positions of the U.S.delegation will be based on these determinations. However, the process of negotiation might require a shift in certain negotiating positions. The extent to which the Service has utilized the procedures established by the Administrative Procedures Act in formulating positions on amendments to the appendices reflects its commitment to a policy of full public participation. The Service does not, however, believe the process of formulating proposed amendments to the appendices is one of rulemaking because the Service cannot give the proposals force and effect unilaterally. Amendment of the Appendices can only occur in an international forum through collective action of the Parties to the Convention. This notice is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that Executive Order 12044 concerning improving government regulations does not apply to this notice, since it does not constitute a rulemaking.

Dated: January 8, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.79-1458 Filed 1-15-79; 8:45 am]

[4310-55-M]

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Public Discussion of Proposed Rule and Other Positions to be Advanced by the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Public meetings on proposed rule.

SUMMARY: This notice announces three day-long public meetings to discuss the proposed rule on the status of native species protected by the Endangered Species Convention and other proposed U.S. positions regarding the interpretation and implementation of the Endangered Species Convention.

The Service is responsible for developing, after consultation with the interested public, the States, and other government and non-governmental organizations, the U.S. position on agenda items to be considered at the Second Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Endangered Species Convention). The Second Meeting of the Conference of the Parties will take place March 19-30, 1979 in San Jose, Costa Rica.

In preparation for the Costa Rica meeting, and as part of an on-going series of consultations with the public on the development of the United States position paper, the Service will hold three more public meetings prior to the commencement of the meeting in Costa Rica.

DATES: Meetings will be held on January 31, 1979, February 1, 1979, and March 8, 1979. All three public meetings will be held from 10:00 a.m. to 12 noon and from 1:00 p.m. to 4:00 p.m. See "Supplementary Information" for additional information on the public meetings.

ADDRESSES: The location of all three meetings is the same: Room 5160 of the Main Interior Building, 18th and C Streets, N.W., Washington, D.C. Those planning to attend the meetings are asked to so inform Joan Caton, Chief, Management Operations Branch, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Further information on the three meetings can be obtained by calling Joan Caton at 703-235-2418.

SUPPLEMENTARY INFORMATION: On January 31, 1979, the Service will hold a day-long public meeting to present the final position on the recommendations it proposes to make at the Costa Rica meeting regarding the status of certain native species protected under the Endangered Species Convention.

On February 1, 1979, the Service will hold a day-long public meeting to report on the status of certain agenda items and to discuss with the interested public specific items to be incorporated in the U.S. position paper for the Costa Rica meeting.

Draft positions will be developed for comment on the following issues:

Financing of the Endangered Species Convention Secretariat and future meetings of the Parties;

The future of the five nation Steering Committee which advises the Convention Secretariat;

The relationship of the Endangered Species Convention with the International Whaling convention and other international agreements;

The interpretation and implementation of the Endangered Species Convention in the following areas:

A. Exemption for specimens that are bred in captivity;

B. Exemption for specimens that are artificially propagated;

C. Exemption for specimens that were acquired before the Convention applied to them;

D. Control of trade in seeds and cut flowers of plants in Appendices I and II;

E. Application of the Convention to hybrids of listed species;

F. Listing of species to effectively control trade in other species;

Regulating import of Appendix II species;

Development of an Identification Manual;

Minimum list of parts and derivatives;

Exchange of museum and herbarium specimens;

Guidelines on shipment of living specimens;

Format for proposals to amend Appendix I or II;

Standardization of taxonomy;

Criteria for adding rare species to Appendix I.

Copies of the draft positions will be available from the Wildlife Permit Office after January 30, 1978. They will also be available at the public meetings scheduled for January 31 and February 1.

On March 8, 1979, the Service will hold a day-long final meeting to brief the public on the entire U.S. position paper developed for the meeting in Costa Rica. At this meeting all agenda items for the Costa Rica meeting will be discussed in detail. All three public meetings will be held from 10:00 a.m. to 12 noon and from 1:00 p.m. to 4:00 p.m.

Dated January 8, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-1455 Filed 1-15-79; 8:45 am]

[4310-55-M]

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Foreign Proposals To Amend The List of Species Protected

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of potential rulemaking.

SUMMARY: Pursuant to recommendations made by Party nations at a special working session of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249), various Parties reviewed the species of wildlife listed in Appendices I and II of the Convention that are native to their countries. Species were to be examined in terms of criteria adopted by the Parties at their first meeting in 1976. This notice reports on 213 proposals by Parties other than the United States to amend Appendices I and II that resulted from this review, or that are proposals to add species not previously listed. The proposals will be considered at the second meeting of the Parties in 1979.

DATES: Comments or information on the proposals should be submitted to the Service by February 19, 1979. The proposed amendments to the Convention will be considered by Party nations on March 19-30, 1979, and any that are adopted by the Parties will enter into force 90 days after adoption.

ADDRESS: Please sent correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Convention on International Trade in Endangered Species of Wild Fauna and Flora is a treaty controlling import, export, re-export and introduction from the sea of certain species of wildlife and plants. Appendices I and II contain a list of the species that the Party nations have agreed to subject to these controls. At their first meeting in 1976, the Parties adopted criteria for adding, transferring or deleting species, and they agreed to review those species already included in the Appendices in terms of these criteria.

Article XV of the Convention sets forth the procedures that Parties are to follow in amending Appendices I and II. Only Parties may propose amendments, and they are not limited to proposing only species native to their countries. Proposals may be submitted by any Party for consideration by all of the Parties through a postal procedure, or they may be submitted for consideration at a meeting of the Conference of the Parties.

Following the first meeting of the Conference of the Parties in 1976, the Service received requests from the public to establish a procedure that would inform the public about proposed changes in the appendices and provide for public participation. In response to this need, the Service published proposed rules on procedures for changing the appendices (43 FR 12349-12351) on March 24, 1978. These procedures have been followed by the Service, even though they are not yet finalized. Although the sequence of notices resembles that of the rulemaking procedure followed in listing species as Endangered or Threatened under the Endangered Species Act of 1973, it should be noted that amendment of the Convention appendices cannot be accomplished through Federal rulemaking. Final determinations are made by agreement of the Parties and not by any one Party.

FOREIGN PROPOSALS

The proposed amendment to Appendices I and II that are summarized in this notice have been submitted by Parties other than the United States for consideration at the Second Meeting of the Conference of the Parties. This meeting is to be held on March 19-30, 1979, in San Jose, Costa Rica. Most of the Proposals were submitted to the Convention's Secretariat in a format recommended to the Parties by the Special Working Session, which was held in 1977 in Geneva, Switzerland.

The purpose of this notice is to inform the public about these foreign proposals and to request information that would be useful in determining the negotiating position that the United States should take when the proposals are considered at the meeting of the Parties. Following an evaluation of all available information, the Service will publish a second notice on or about February 28, 1979, stating its determinations on these proposals. The negotiating positions of the United States delegation will be based on these determinations, recognizing that the process of negotiation might require a shift in certain negotiating positions.

The foreign proposals are summarized below. The full texts of the proposals are on file in the Federal Wildlife Permit Office and are available for public inspection.

[4310-55-C] Summary of proposals made by foreign nations to amend Appendices I and II of the Endangered Species Convention

Species	Current * status	Proposed status	Proponent
MAMMALIA			
MARSUPIALIA			
Macropodidae			
Bettongia spp.	3 species of genus in I	I	Australia
Caloprymnus campetstris	I	0	Australia
Dendrolagus spp.	2 species of genus in II	II	Australia
Macropus parma	II	0	Australia
Phalangeridae			
Phalanger maculatus	0	II	Australia
Phalanger orientalis	0	II	Australia
Wyulda squamicaudata	II	0	Australia
Petauridae			
Gymnobelidius leadbeateri	0	II	Australia
Vombatidae			
Lasiorhinus krefftii	0	I	Australia
Lasiorhinus gillespiei	I	0	Australia
Peramelidae			
Chaeropus eucaudatus	I	0	Australia
Dasyuridae			
Antechinomys laniger	II	0	Australia

Antechinus apicalis	0	II	Australia
Antechinus godmani	0	II	Australia
Dasyuroides byrnei	0	II	Australia
Myrmecobius fasciatus rufus	I	0	Australia
Planigale tenuirostris	II	0	Australia
Thylacinidae			
Thylacinus cynocephalus	I	0	Australia
PRIMATES			
Cercopithecidae			
Macaca mulatta (Indian population)	II	0	India
Macaca radiata (Indian population)	II	0	India
Presbytis entellus	I	II	India
RODENTIA			
Castoridae			
Castor fiber birulai	I	0	Switzerland
Muridae			
Notomys spp.	0	II	Australia
Notomys aquilo	I	II	Australia
Pseudomys fieldi	I	0	Australia
Pseudomys novaehollandiae	I	0	Australia
Pseudomys occidentalis	I	0	Australia
Pseudomys oralis	0	II	Australia
Pseudomys shortridgei	I	II	Australia
CETACEA			
All species except those in Appendix I	Some species or stocks in II	II	United Kingdom

Platanistidae			
Lipotes vellixifer	0	I	United Kingdom
Platanista minor	0	I	United Kingdom
Delphinidae			
Sotalia spp.	0	I	United Kingdom
Sousa spp.	0	I	United Kingdom
Phocaenidae			
Neophocoena phocaenoides	0	I	United Kingdom
Phocoena sinus	0	I	United Kingdom
CARNIVORA			
Canidae			
Dusicyon culpaeus	0	II	Chile
Dusicyon fulvipes	0	II	Chile
Dusicyon griseus	0	II	Chile
Canis lupus pallipes	II	I	India
Ursidae			
Helarctos malayanus	II	I	India
Selenarctos thibetanus	Subspecies S.t. gedrosianus in I	I	India
Mustelidae			
Conepatus humboldti	0	II	Chile
Lutra felina	I	II	Chile
Lutra provocax	I	II	Chile

Felidae			
Felis bengalensis bengalensis	I	II	Switzerland
Felis bieti	II	0	Switzerland
Felis chaus	II	0	Switzerland
Felis concolor coryi	I	II	Switzerland
Felis concolor costaricensis	I	II	Switzerland
Felis concolcr cougar	I	II	Switzerland
Felis lynx (including Lynx canadensis)	II	0	Switzerland
Felis pardalis mearnsi	I	II	Switzerland
Felis pardalis mitis	I	II	Switzerland
Felis rufa escuinapae	I	II	Switzerland
Felis silvestris	II	0	Switzerland
Felis temmincki	I	II	Switzerland
Felis tigrina oncilla	I	II	Switzerland
Felis wiedii nicaraguae	I	II	Switzerland
Felis wiedii salvinia	I	II	Switzerland
Felis yagouaroundi cacomitli	I	II	Switzerland
Felis yagouaroundi fossata	I	II	Switzerland
Felis yagouaroundi panamensis	I	II	Switzerland
Felis yagouaroundi tolteca	I	II	Switzerland
Felis caracal	II	I	India
Felis lynx isabellina	II	I	India
Felis manul	II	I	India
Felis rubiginosa	II	I	India
Phocidae			
Ommatophoca rossi	O	I	Chile

PROBOSCIDEA			
Elephantidae			
Elephas maximus (Indian population)	I	II	India
PERISSODACTYLA			
Equus hemionus kiang	0	I	India
ARTIODACTYLA			
Bovidae			
Kobus leche	I	II	Botswana
Saiga tatarica mongolica	I	O	Switzerland
Bos gaurus	I	II	India
Nemorhaedus goral (Indian population)	II	0	India
Pantholops hodgsoni	II	I	India
Camelidae			
Vicugna vicugna	I	II	Chile and Switzerland
Vicugna vicugna (Population of Pampas Galeras National Reserve and Cala Cala in Peru)	I	II	Peru
Camelus bactrianus	I	0	Switzerland
Cervidae			
Pudu pudu	I	II	Switzerland
AVES			
RHEIFORMES			
Rheidae			
Pterocnemia spp.	2 subspecies in II	II	Chile

CICONIIFORMES			
Threskiornithidae			
Geronticus eremita	0	I	Switzerland
Phoenicopteridae			
Phoenicopterus ruber ruber	0	II	United Kingdom
ANSERIFORMES			
Anatidae			
Nettapus coromandelianus albipennis	0	II	Australia
Coscoroba coscoroba	II	I	Chile
FALCONIFORMES			
All species except those in Appendix I	Some species in II	II	Sweden
Accipitridae			
Accipiter gentilis	II	I	Switzerland and India
Accipiter nisus	II	I	Switzerland
Aviceda jerdoni jerdoni	0	I	India
Aviceda leuphotes leuphotes	0	I	India
Gypaetus barbatus	II	I	India
Hieraaetus spp.	0	I	India
Hieraaetus fasciatus	0	II	Switzerland
Hieraaetus pennatus	0	II	Switzerland
Lophotriorchis spp.	0	I	India
Spizaetus spp.	0	I	India

Pandionidae			
Pandion haliaetus	II	I	India
Falconidae			
Falco biarmicus	II	I	India
Falco rusticolus	II	I	Denmark
Falco chicquera	II	I	India
GALLIFORMES			
Phasianidae			
Cyrtonyx montezumae merriami	I	0	Switzerland
Catreus wallichii	II	I	India
Megapodiidae			
Megapodius freycinet nicobariensis	II	I	India
GRUIFORMES			
Otididae			
Chlamydotis undulata	II	I	India
Choriotis nigriceps	II	I	India
Otis tetrax	0	I	India
Pedionomidae			
Pedionomus torquatus	0	II	Australia
Turnicidae			
Turnix melanogaster	0	II	Australia
CHARADRIIFORMES			
Laridae			
Larus relictus	I	0	Switzerland

COLUMBIFORMES			
Columbidae			
Ducula mindorensis	I	II	Switzerland
Caloenas nicobarica	0	I	India
PASSERIFORMES			
Pittidae			
Pitta kochi	I	II	Switzerland
Muscicapidae			
Amytornis goyderi	I	0	Australia
Dasyornis broadbenti littoralis	I	0	Australia
Psophodes nigrogularis	I	II	Australia
Estrilidae			
Emblema oculata	0	II	Australia
Poephila cincta cincta	0	II	Australia
PSITTACIFORMES			
Psittacidae			
Geopsittacus occidentalis	I	0	Australia
Psephotus pulcherrimus	I	0	Australia
Cyanoliseus patagonus byroni	0	II	Chile
Amazona leucocephala	I	0	Switzerland
Cyanoramphus auriceps forbesi	I	0	Switzerland
Psittacus erithacus princeps	I	0	Switzerland
Strigops habroptilus	I	0	Switzerland

STRIGIFORMES			
All species except those in Appendix I	Some species in II	II	Denmark
Strigidae			
Otus gurneyi	I	II	Switzerland
Athene blewitti	0	I	India
CORACIIFORMES			
Bucerotidae			
Buceros bicornis homarai	II	I	India
Rhyticeros (Undulatus) narcondami	0	I	India
REPTILIA			
TESTUDINATA			
Cheloniidae			
Chelonia mydas (Populations of Tromelin and Europa Islands)	I	II	Australia
Emydidae			
Batagur baska (Indian population)	I	0	India
Geoemyda (=Nicoria) tricarinata (Indian population)	I	0	India
Kachuga tecta tecta (Indian population)	I	0	India
Testudinidae			
Geochelone (=Testudo) radiata (Indian population)	I	0	India
Trionychidae			
Lissemys punctata punctata (Indian population)	I	0	India

Trionyx gangeticus (Indian population)	I	0	India
CROCODYLIA			
Crocodylidae			
Crocodylus porosus	II	I	India
Crocodylus niloticus (Botswana population)	I	II	Botswana
SQUAMATA			
Colubridae			
Elachistodon westermanni	II	0	Switzerland
Boidae			
Python reticulatus	II	I	India
Varanidae			
Varanus salvator	II	I	India
RHYNCHOCEPHALIA			
Sphenodontidae			
Sphenodon punctatus	I	0	Switzerland
ARTHROPODA			
INSECTA			
LEPIDOPTERA			
Papilionidae			
Parnassius apollo	II	0	Switzerland
MOLLUSCA			
LAMELLIBRANCHIATA			
Mytilidae			
Mytilus chorus	0	I	Chile

GASTROPODA			
Muricidae			
Concholepas concholepas	0	II	Chile
ECHINODERMATA			
Echinoidea			
Echinidae			
Loxochinus albus	0	II	Chile
FLORA			
Angiopteridaceae			
Angiopteris spp.	0	II	India
Apocynaceae			
Rauvolfia spp.	0	II	India
Araucariaceae			
Araucaria araucana	II	I	Chile
Asclepiadaceae			
Ceropegia spp.	0	II	India
Dischidia bengalensis	0	I	India
Frerea indica	0	II	India
Blechnaceae			
Brainea insignis	0	II	India
Burseraceae			
Bursera pencillata	0	I	India
Byblidaceae			
Byblis spp.	0	I	Australia
Caesalpiniaceae			
Caesalpina spinosa	0	II	India

Campanulaceae			
Lobelia nicotianaefolia	0	II	India
Cephalotaceae			
Cephalotus follicularis	0	II	Australia
Chloanthaceae			
All species	0	II	Australia
Coniferae			
Cephalotaxum griffithii	0	I	India
Cupressaceae			
Pilgerodendron uviferum (including timber)	I	II	Chile
Cycadaceae			
cycas beddomei	II	I	India
Cycas pectinata	II	I	India
Dioscoreaceae			
Dioscorea prazeri	0	II	India
Droseraceae			
Drosera spp.	0	I	India
Ebeneceae			
Diospyros marmorata	0	I	India
Ericaceae			
Rhododendron dalhousiae var. rhabdotiem	0	I	India
Gentianaceae			
Gentiana kurro	0	II	India
Gnetaceae			
Gnetum spp.	0	I	India

Haemodoraceae			
Anigozanthos spp.	0	II	Australia
Hacropidia fulginosa	0	II	Australia
Krameriaceae			
Krameria cistoidea	0	I	Chile
Liliaceae			
Colchicum luteum	0	I	Inida
Gloriosa superba	0	I	India
Iphigenia stelata	0	I	India
Magnoliaceae			
Talauma hodgsonii	0	II	India
Myrtaceae			
Verticordia spp.	0	II	Australia
Nepenthaceae			
Nepenthes spp.	0	I	India
Ophioglossaceae			
Botrychium spp.	0	II	India
Helminthostachys zeylanica	0	II	India
Orchidaceae			
Anaectochilus spp.	II	I	India
Arachnanthe spp.	II	I	India
Cypripedium spp.	II	I	India
Galeola spp.	II	I	India
Paphiopedilum spp.	II	I	India
Renanthera imschoetiana	II	I	India

Vanda coerulea	II	I	India
Osmundaceae			
Todea barbara	0	II	Australia
Osmunda spp.	0	II	India
Pinaceae			
Abies nebrodensis	I	0	Switzerland
Abies delavayi	0	I	India
Podocarpaceae			
Podocarpus neriifolius	0	II	India
Polygonaceae			
Rheum emodei	0	II	India
Rheum nobile	0	II	India
Proteaceae			
Banksia spp.	0	II	Australia
Conospermum spp.	0	II	Australia
Dryandra formosa	0	II	Australia
Dryandra polycephala	0	II	Australia
Xylomelum spp.	0	II	Australia
Ranunculaceae			
Aconitum spp.	0	I	India
Coptis teeta	0	I	India
Rutaceae			
Boronia spp.	0	II	Australia
Crowea spp.	0	II	Australia
Geleznowia verrucosa	0	II	Australia

Schizaeaceae			
Anemia tormentose	0	II	India
Schizaea spp.	0	II	India
Solanaceae			
Atropa spp.	0	II	India
Tetracentraceae			
Tetracentron sinense	0	II	India
Thymelaeaceae			
Pimelea physodes	0	II	Australia
Ulmaceae			
Celtis aetnensis	I	0	Switzerland
Valerianaceae			
Nardostachys spp.	0	I	India
Valeriana spp.	0	I	India
Zingiberaceae			
Costus speciosus	0	II	India

*Status is indicated as follows: I = Appendix I, II = Appendix II, 0 = not included in either appendix.

The proposals and all information and comments received in connection with this notice will be available for public inspection during normal business hours at the Federal Wildlife Permit Office, Room 616, 1000 N. Glebe Road, Arlington, Virginia.

This notice is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that Executive Order 12044 concerning improving government regulations does not apply to this notice, since it concerns a matter which relates to a foreign affairs function of the United States.

Dated: January 8, 1979.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc. 79-1456 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART VI



DEPARTMENT OF JUSTICE

Parole Commission

■

PAROLING, RECOMMITTING AND SUPERVISING FEDERAL PRISONERS

Interim and Final Rule

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final Rule.

SUMMARY: This amendment provides that all Federal prisoners sentenced to prison terms of more than one year will be afforded initial parole hearings within 120 days of their arrival at a Federal institution, with the sole exception that a prisoner whose sentence includes a minimum term of ten years or more will not be given an initial hearing until just prior to completion of his minimum term. The amendment also requires the Commission to set a "presumptive date of release" if release appears to be warranted for a date not more than ten years from the date of the hearing. The amendment is designed to provide more certainty in the service of prison terms, while maintaining the Commission's flexibility to review each case periodically for new developments.

EFFECTIVE DATE: Each prisoner sentenced on or after March 5, 1979, will receive an early initial hearing under the amended rule. Prisoners sentenced prior to the effective date will continue to be eligible for their initial hearings under the terms of the existing rules structure. However, any prisoner receiving a parole hearing of any kind on or after March 5, 1979, will be considered for a presumptive release date under the terms of the amended rule set forth below.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; phone (202) 724-3092.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published at 43 FR 41411-41412 (Monday, September 18, 1978) and a deadline for public comment was set for November 15, 1978. In response to its invitation for public comment, the Commission received 21 letters from inmates, one letter from a Bureau of Prisons staff psychologist, one letter from an inmate's spouse, and one letter from a volunteer visitor at a federal penitentiary.

Background

This amended rule is an expansion of the Commission's present policy of affording early initial parole hearings for the majority of federal prisoners and of setting presumptive dates of release up to four years in advance. (While a judicially-imposed minimum term is not a bar to an early hearing under this policy, neither the existing nor the amended rule would permit the actual release of a prisoner prior to completion of a minimum term.)

The principal benefit envisaged by this policy is that of providing a working measure of certainty for prisoners as to the date the Commission intends to release them, contingent upon the Commission making an affirmative finding that the prisoner has "substantially observed the rules of the institution or institutions to which he has been confined" (18 U.S.C. 4206), and has offered a suitable plan for community release.

After establishing a presumptive release date at the outset of the sentence, the Commission conducts periodic in-person review hearings to determine whether the release date should be advanced or deferred. However, it is the Commission's policy to alter an established release date only if there are clearly exceptional circumstances. Thus, the Commission maintains flexibility where it is needed, while avoiding any prolongation of needless uncertainty. (It should be noted that in exceptionally serious cases where a release date cannot be set, the initial guideline assessment is not changed when the prisoner is given a full reconsideration hearing. This will remain the Commission's policy.)

The prevailing theme in the public comment was that the proposal is a beneficial measure, but that it is unfair of the Commission not to extend the early hearing provision to prisoners presently incarcerated.

The Merits of the Proposal

In commentary on the merits of the proposal, one inmate observed that the setting of a presumptive date early in the term would remove

> * * * the very heavy weight of doubt and uncertainty. A long period of psychological stress is an additional burden upon a convicted man.

Dr. Warren J. Welsh of the Federal Correctional Institution, Lexington, Kentucky, informed the Commission that the new rules

> * * * will serve to alleviate much of the emotional pressure under which inmates presently serve their sentences.

One very perceptive inmate stated:

> In prison the most amazing thing I see is how quick we the inmates forget why we are here. We justify our crimes through excuses, we seek sympathy from anyone and everyone, we build our lives around false hopes and dreams that can't be. Our sentencing structure and parole laws contribute to this in a small way. We need exact minimum and maximum times * * *

Not all prisoners agreed with this point of view. Several letters criticized the Commission's "clearly exceptional" standard for advancing a presumptive date and gave their opinion that the interim hearings would be meaningless formalities. One letter complained that the system will be counter-productive, since there will be little an inmate can do to earn his way out:

> If I don't get a reward, why behave or participate?

However, a number of other inmates felt that the very quality of definiteness in a presumptive release date permits a more productive attitude. The fact that the date is contingent upon good conduct makes it, in one inmate's words:

> an incentive to strive for.

This is precisely the attitude that the Commission intends its policies to foster. Moreover, the Commission's "clearly exceptional" standard is intended to focus concern on genuinely significant changes or developments in the case that could not have been taken into account when the presumptive date was initially established. As stated in the Conference Report accompanying the Parole Commission's enabling statute:

> It is the intent of the Conferees that all of the items which bear upon the parole decision are considered at the initial determination proceeding, but that the subsequent proceedings required by this section (18 U.S.C. 4208) focus upon those items which have changed, or which may have changed, in the intervening time. (2 U.S. Code Cong. & Admin. News 363 (1976).)

Prisoners and their representatives should also bear in mind that institutional performance can be considered deserving of some response only when it is in fact "clearly exceptional", since a record of substantial good conduct is the minimum expected of each prisoner. (Note that the guideline ranges are "established specifically for cases with good institutional adjustment and program progress". 28 CFR 2.20(b)).

The element of increased certainty was seen to have a number of other advantages. As one prisoner observed:

> There are, of course, many advantages for the prisoner who knows for certain that he will be released at a certain time. One of the advantages is being able to start planning for the future—employment, school, re-establishing family ties, relocating—and

simply being in a position of telling one's family when he will be getting out.

Finally, the critical concern for many prisoners (and perhaps the most important concern in terms of their eventual reintegration into normal society) appeared to be the continuation of marital ties that having a firm date encourages.

THE ISSUE OF RETROACTIVITY

The Commission understands the concerns of those prisoners who will not be made eligible for an early hearing under this rule. However, the Commission does not presently have the resources to: (1) Conduct its normally scheduled hearings; (2) conduct the additional initial hearings required by this amended rule for those newly-sentenced prisoners who would otherwise not have to be heard until completion of their minimum terms; and (3) *in addition* grant early hearings at the same time to all presently incarcerated inmates who would not be heard until completion of their minimum terms.

The Commission does intend, however, during the coming year, to provide initial hearings to remaining prisoners as the workload permits. The procedure for adding these cases to the dockets will be as follows.

Each institution will be asked to submit a list of names and register numbers of all prisoners who, as of October 1, 1979, will not have received an initial hearing but who would be eligible for an initial hearing if the revised rules were made fully retroactive.

The list will be sent to the appropriate regional office. Upon receipt of the list, the regional office will notify each institution to add a specified number of cases to each docket (depending upon workload), beginning with those prisoners closest to their parole eligibility dates. This procedure will remain in effect until full retroactivity is achieved.

Prisoners previously continued to four-year reconsideration hearings will be considered under the new procedures at their first statutory interim hearing.

TEXT OF THE REVISIONS

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, is revised as set forth below:

1. Paragraphs (a), (b) and (c) of § 2.12 are consolidated into paragraphs (a) and (b) and revised to read as set forth below. Paragraph (c) is deleted.

§ 2.12 Initial hearings: Setting presumptive release dates.

(a) An initial hearing shall be conducted within 120 days of a prisoner's arrival at a Federal institution or as soon thereafter as practicable; except that in the case of a prisoner with a minimum term of parole ineligibility of ten years or more, the initial hearing shall be conducted at least 30 days prior to the completion of such minimum term, or as soon thereafter as practicable.

(b) Following initial hearing, the Commission shall (1) set a presumptive release date (either by parole or by mandatory release) within ten years of the hearing; (2) set an effective date of parole; or (3) continue the prisoner to a ten-year reconsideration hearing pursuant to § 2.14(c).

(c) [Deleted]

2. Paragraph (d) of § 2.12 becomes (c), and paragraph (e) of § 2.12 becomes (d).

3. Paragraphs (a) and (c) of § 2.14 are revised to read as follows:

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* The purpose of an interim hearing required by 18 U.S.C. 4208(h) shall be to consider any significant developments or changes in the prisoner's status that may have occurred subsequent to the initial hearing.

(1) Notwithstanding a previously ordered presumptive release date or ten-year reconsideration hearing, interim hearings shall be conducted by an examiner panel pursuant to the procedures of § 2.13(b), (c), (e) and (f) at the following intervals from the date of the last hearing:

(i) In the case of a prisoner with a maximum term or terms of less than 7 years, every 18 months (until released);

(ii) In the case of a prisoner with a maximum term or terms of 7 years or more, every 24 months (until released). However, in the case of prisoner with an unsatisfied minimum term, the first interim hearing shall be deferred until the docket of hearings immediately preceding the month of parole eligibility.

(2) Following an interim hearing the Commission may:

(i) Order no change in the previous decision;

(ii) Advance a presumptive release date, or the date of a ten-year reconsideration hearing. However, it shall be the policy of the Commission that once set, a presumptive release date or the date of a ten-year reconsideration hearing shall not be advanced except under clearly exceptional circumstances;

* * * * *

(c) *Ten-year reconsideration hearings.* A ten-year reconsideration hearing shall be a full reassessment of the case pursuant to the procedures of § 2.13.

(1) A ten-year reconsideration hearing shall be ordered following the initial hearing in any case in which a release date is not set.

(2) Following a ten-year reconsideration hearing, the Commission may take any one of the actions authorized by § 2.12(b).

Dated: January 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1345 Filed 1-15-79; 8:45 am]

[4410-01-M]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Interim rule.

SUMMARY: This rule requires that whenever, prior to the actual release of a prisoner, the Commission rescinds or retards a previously granted parole date on the basis of a disciplinary violation, the decision as to how long the prisoner should remain in confinement thereafter must be made pursuant to guidelines as set forth in the rule. These guidelines establish a policy that most cases of misconduct will result in a retardation of the release date by no more than 60 days. Rescission of parole will be indicated only for the most serious cases (e.g. multiple or aggravated misconduct or criminal violations). In addition, the Commission's procedural rules for reopening and rescinding parole dates are consolidated and clarified by a number of supplemental amendments.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, NW., Washington, D.C. 20537, phone (202) 724-1991.

SUPPLEMENTARY INFORMATION: These rule revisions are being made effective as interim rules pending the submission of public comment. At present, the Commission does not have any explicit rules to structure or limit its exercise of discretion in determining how long a prisoner should be held in confinement following a finding of disciplinary violation. These rules are being published as interim rules pending the submission of public

comment in order to ensure that pertinent rules are in effect when the first interim review hearings for prisoners with presumptive parole dates are held pursuant to 18 U.S.C. 4208(h) in March of 1979. The need to resolve a number of administrative and policy issues prevented earlier publication of the rules contained in this document.

Notice of proposed rulemaking and an invitation for public and prisoner comment appear in the Proposed Rules section of this issue of the FEDERAL REGISTER. This comment, as well as the Commission's experience with its March 1979 dockets, will be considered before promulgation of a final rule governing parole rescissions.

Accordingly, pursuant to 5 U.S.C. 553(b)(3)(B), 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, is amended as set forth below, the amended portions to become effective in the interim pending public comment.

1. Section 2.34 is revised to read as follows:

§ 2.34 Rescission of parole.

(a) When an effective date of parole has been set by the Commission, release on that date is conditioned upon continued satisfactory conduct by the prisoner. If a prisoner granted such a date has been found in violation of institution rules by an Institutional Disciplinary Committee or is alleged to have committed a new criminal act at any time prior to the delivery of the certificate of parole, the Regional Commissioner shall be advised promptly of such information. The prisoner shall not be released until the institution has been notified that no change has been made in the Commission's order to parole. Following receipt of such information, the Regional Commissioner may reopen the case and retard the parole date for up to 60 days without a hearing, or schedule a rescission hearing under this section on the next available docket at the institution or on the first docket following return to a federal institution from a community treatment center or a state or local halfway house.

(b) Upon the ordering of a rescission hearing under this section, the prisoner shall be afforded written notice specifying the information to be considered at the hearing. The notice shall further state that the purpose of the hearing will be to decide whether rescission of the parole date is warranted based on the charges listed on the notice, and shall advise the prisoner of the procedural rights described below.

(c) An Institutional Disciplinary Committee hearing resulting in a finding that the prisoner has committed a violation of disciplinary rules may be relied upon by the Commission as conclusive evidence of institutional misconduct. However, the prisoner will be afforded an opportunity to explain any mitigating circumstances, and to present documentary evidence in mitigation of the misconduct at the rescission hearing.

(d) In the case of allegations of new criminal conduct committed prior to delivery of the parole certificate, the Commission may consider documentary evidence and/or written testimony presented by the prisoner, arresting authorities, or other persons.

(e) The prisoner may be represented at a rescission hearing by a person of his choice. The function of the prisoner's representative shall be to offer a statement following the discussion of the charges with the prisoner, and to provide such additional information as the examiner panel may require. However, the presiding hearing examiner may limit or exclude any irrelevant or repetitious statement.

(f) The evidence upon which the rescission hearing is to be conducted shall be disclosed to the prisoner upon request, subject to the exemptions set forth at § 2.55. If the parole grant is rescinded, the Commission shall furnish to the prisoner a written statement of its findings and the evidence relied upon.

(g) The following guidelines shall apply to cases in which the prisoner has been found to have committed institutional misconduct or new criminal activity:

(1) Administrative rule infraction(s) (including drug/alcohol abuse) normally can be adequately sanctioned by postponing a presumptive or effective date by 0–60 days per instance of misconduct. Escape or other criminal conduct, however, shall normally indicate rescission and application of the guidelines as set forth below.

(2) In cases involving escape without force or threat, the following guidelines indicate the normal range of time to be added to the time in custody required by the presumptive or effective date previously set:

(i) Non-Secure Facility or Program (absent less than 7 days), 3–6 months.
(ii) Secure Facility (no force or threat used); or Non-Secure Facility or Program (absent 7 days or more), 6–12 months.

Notes

(A) Time in escape status is not to be credited to service of the time required by the presumptive/effective date.

(B) These guidelines shall also apply to the determination of total time to be served if a new consecutive or concurrent sentence is imposed for the escape.

(C) If other criminal conduct is committed during the escape or duration of time spent in escape status, the time to be served for the escape shall be added to that assessed under subparagraph (3) of this paragraph.

(3) In cases of new criminal conduct other than specified above, the case shall be reassessed against the guidelines at § 2.20 or § 2.21, as applicable, with the new criminal behavior treated as an aggravating factor on the offense severity dimension.

(4) The above are merely guidelines. Where the circumstances warrant, a decision outside the guidelines (above or below) may be rendered, providing specific reasons are given. For example, a substantial period of good conduct since the last disciplinary infraction in cases not involving new criminal conduct may be treated as a mitigating circumstance.

§ 2.20 [Amended]

2. Section 2.20 (Paroling policy guidelines) is amended to delete "Escape" as it is described in the *Low* and *Moderate* severity categories.

3. Section 2.28 is revised to consolidate in one rule each of the various mechanisms presently available to the Commission for reopening a previously decided case and revising its previous decision:

§ 2.28 Reopening of Cases

(a) *Favorable information.* Notwithstanding the appeal procedures of § 2.25 and § 2.26, the appropriate Regional Commissioner may, on his own motion, reopen a case at any time upon the receipt of new information of substantial significance favorable to the prisoner and may then take any action authorized under the provisions and procedures of § 2.25. Original jurisdiction cases may be reopened upon the motion of the appropriate Regional Commissioner under the procedures of § 2.17.

(b) *Institutional misconduct.* Consideration of disciplinary infractions and allegations of new criminal conduct occurring after the setting of a parole date are subject to the provisions of § 2.14 (in the case of a prisoner with a presumptive date) and § 2.34 (in the case of a prisoner with an effective date of parole).

(c) *Additional sentences.* If a prisoner receives an additional concurrent or consecutive federal sentence following his initial parole consideration, the Regional Commissioner shall reopen his case for a new initial hearing on the next regularly scheduled docket to consider the additional sentence and reevaluate the case. Such action shall void any presumptive or effective release date previously established.

(d) *Conviction after revocation.* Upon receipt of information subsequent to the revocation hearing that a prisoner whose parole has been revoked has sustained a new conviction for conduct while on parole, the Regional Commissioner may reopen the case pursuant to § 2.52(c)(2) for a spe-

cial reconsideration hearing on the next regularly scheduled docket to consider forfeiture of time spent on parole and such further action as may be appropriate. The entry of a new order shall void any presumptive or effective release date previously established.

(e) *Release planning.* When an effective date of parole has been set by the Commission, release on that date shall be conditioned upon the completion of a satisfactory plan for parole supervision. The appropriate Regional Commissioner may on his own motion reconsider any case prior to release and may reopen and advance or retard an effective parole date for purposes of release planning. Retardation without a hearing may not exceed 120 days.

(f) *New adverse information.* Upon receipt of new information adverse to a prisoner that is not covered by paragraphs (a–e) of this section, the Regional Commissioner may refer the case to the National Commissioners with his recommendation and vote to retard parole and schedule the case for a special reconsideration hearing. The decision to reopen the case shall be based on the concurrence of three out of five votes, and the hearing shall be conducted in accordance with the procedures set out in §§ 2.12 and 2.13. The entry of a new order following such hearing shall void the previously established release date.

4. Section 2.14 is amended as set forth below to clarify the procedures that will be followed in considering disciplinary infractions at interim review hearings for prisoners with presumptive parole dates. The sections of the rule that are not reprinted below remain unchanged. Paragraphs (a)(3)(iii), (a)(3)(iv), (b)(1), (b)(2)(ii) are revised to read as follows:

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* * * *

(3) Following an interim hearing, the Commission may:

* * * * *

(iii) Retard or rescind a presumptive parole date for reason of disciplinary infractions. In a case in which disciplinary infractions have occurred, the interim hearing shall be conducted in accordance with the procedures of § 2.34(c)-(g). (Prior to each interim hearing, prisoners shall be notified on the progress report furnished by the Bureau of Prisons that any finding of misconduct by an Institutional Disciplinary Committee since the previous hearing will be considered for possible action under this subsection.)

(iv) If a presumptive date falls within six months after the date of an interim hearing, the Commission may treat the interim hearing as a pre-release review in lieu of the record review required by paragraph (b) of this section.

(b) *Pre-release reviews.* * * *

(1) At least 60 days prior to a presumptive parole date, the case shall be reviewed on the record, including a current institutional progress report.

(2) Following review, the Regional Commissioner may:

* * * * *

(ii) Approve and advance or retard a parole date for purpose of release planning as provided in § 2.28(e).

5. *Conforming amendments.* The following sections are revised as set forth below:

§ 2.12 [Amended]

A. Section 2.12(e) is amended to read as follows:

* * * * *

(e) A presumptive parole date shall be contingent upon an affirmative finding by the Commission that the prisoner has a continued record of good conduct and a suitable release plan and shall be subject to the provisions of §§ 2.14 and 2.28. In the case of a prisoner sentenced under the Narcotic Addict Rehabilitation Act, 18 U.S.C. 4254, a presumptive parole date shall also be contingent upon certification by the Surgeon General pursuant to § 2.3 of these rules. Consideration of disciplinary infractions in cases with presumptive parole dates may be deferred until the commencement of the next in-person hearing or the prerelease record review required by § 2.14(b). While prisoners are encouraged to earn the restoration of forfeited or withheld good time, the Commission will consider the prisoner's overall institutional record in determining whether the conditions of a presumptive parole date have been satisfied.

§ 2.15 [Amended]

B. Section 2.15 is amended to change the reference to § 2.28 to § 2.28(a).

§ 2.29 [Amended]

C. Section 2.29(c) is deleted, because its substance is contained in the new § 2.28(e). The present § 2.29(d) is therefor redesignated as § 2.29(c).

§ 2.30 [Revised]

D. Section 2.30 is revised to read as follows:

All paroles are ordered on the assumption that information from the prisoner has not been fraudulently given or withheld from the Commission. If evidence comes to the attention of the Commission that a prisoner willfully concealed or misrepresented information deemed significant, the Regional Commissioner may reopen the case pursuant to § 2.28(f) for a hearing to determine whether such parole should be voided. Such action may be taken whether or not the prisoner has actually been released on parole. If such prisoner has been released on parole, the Commission or a member thereof may issue a summons or warrant for such prisoner.

Dated: January 10, 1979.

CECIL C. MCCALL,
Chairman,
United States Parole Commission.

[FR Doc. 79-1346 Filed 1-15-79; 8:45 am]

[4410-01-M]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: This document makes a number of changes in the Commission's rules that govern delegation of authority to conduct hearings to hearing examiners and panels of hearing examiners. The present changes reflect certain provisions of the Commission's enabling statute and legislative history that permit delegation of such authority to a single hearing officer in the case of local revocation hearings.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION, CONTACT:

Michael A Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537, phone, (202) 724-3092.

SUPPLEMENTARY INFORMATION: Specific reference is made to 18 U.S.C. 4203(c) (2) and (3), as well as 2 U.S. CODE CONG. & ADMIN. NEWS at page 355 (1976).

These amendments will clarify the Commission's present practice of delegating authority, pursuant to the above-cited references, to a single hearing examiner to conduct local revocation hearings, with another hearing examiner reviewing the case on the record and joining his vote to that of the examiner conducting the hearing to produce a panel recommendation.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), Title 28, Code of Federal Regulations, is amended as set forth below:

1. Section 2.23 is revised to read as follows:

§ 2.23 Delegation to hearing examiners.

(a) There is hereby delegated to hearing examiners the authority necessary to conduct hearings and make recommendations relative to the grant or denial of parole or reparole, revocation or reinstatement of parole or mandatory release, and conditions of parole. Hearings shall be conducted by a panel of two hearing examiners, except where specifically provided that a hearing may be conducted by a single hearing examiner or other official designated by the Regional Commissioner.

(b) The concurrence of two examiners shall be required for a panel recommendation. If a hearing is conducted by a single examiner (or other official), the case shall be reviewed on the record by an additional examiner or examiners for the required vote or votes.

(c) In the event of a divided recommendation by a panel, the regional Administrative Hearing Examiner shall vote. If the Administrative Hearing Examiner is serving as a member of a hearing examiner panel or is otherwise unavailable, cases requiring his action under this paragraph will be referred to another hearing examiner.

(d) A recommendation of a hearing examiner panel shall become an effective Commission decision upon review and docketing at the Regional Office, unless action is initiated by the Regional Commissioner pursuant to § 2.24.

2. Section 2.49(e) is revised as follows:

§ 2.49 Place of revocation hearing.

* * * * *

(e) A local revocation hearing shall be scheduled to be held within sixty days of the probable cause determination. Institutional revocation hearings shall be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the parolee was taken. However, if a parolee requests and receives any postponement or consents to a postponed revocation proceeding, or if a parolee by his actions otherwise precludes the prompt conduct of such proceedings, the above-stated time limits may be extended. A local revocation hearing may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Regional Commissioner.

§ 2.50 [Amended]

3. Section 2.50 is amended as follows:

Paragraph (a) is deleted and the remaining subsections are redesignated as follows:

(b) Becomes (a); and the term "parolee" is substituted for "prisoner".

(c) Becomes (b).

(d) Becomes (c).

(e) Becomes (d).

(f) Becomes (e).

In addition, a new paragraph (f) is added to contain the last sentence of former paragraph (a):

* * * * *

(f) A revocation decision may be appealed under the provisions of § 2.25 and § 2.26, or § 2.27 as applicable.

Dated: January 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1343 Filed 1-15-79; 8:45 am]

[4410-01-M]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: This document contains miscellaneous amendments to the Commission's rules that correct a number of editorial and typographical errors. No substantive changes to the meaning of any of the rules are effected by these amendments.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; Phone (202) 724-1991.

SUPPLEMENTARY INFORMATION: On a recent nation-wide staff training session, a number of drafting problems and typographical errors were uncovered in the Commission's rules. The following amendments are being made in the interest of clarity.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), Title 28, Code of Federal Regulations, is amended as set forth below:

1. TABLE OF CONTENTS

Five section headings are amended both in the Table of Contents and in the body of the rules to read as follows:

Sec.
2.41 Travel approval.
2.43 Early termination.
2.48 Revocation: Preliminary interview.
2.52 Revocation decisions.
2.54 Reviews pursuant to 18 U.S.C. 4215(c).

§ 2.2 [Amended]

2. In § 2.2 *Eligibility for Parole: Adult Sentences,* paragraph (b) is amended to change the first reference to 18 U.S.C. 4205(a)(1) to read 18 U.S.C. 4205(b)(1).

§ 2.7 [Amended]

3. In § 2.7 *Committed Fines,* in paragraph (b), the last sentence is revised to read:

(b) * * * If the chief executive officer of the institution or U.S. Magistrate shall find that retention by the prisoner of any part of his assets is reasonably necessary for his support or that of his family, the prisoner upon taking the prescribed oath concerning his assets, shall be discharged from the commitment obligation of the committed fine sentence upon payment on account of his fine of that portion of his assets in excess of the amount found to be reasonably necessary for his support or that of his family.

* * * * *

The above changes "or that portion" to "of that portion" and deletes an unnecessary "of".

4. Section 2.8 *Mental competency proceedings,* is revised to read as follows:

§ 2.8 Mental Competency Proceedings.

(a) Whenever a prisoner (or parolee) is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary inquiry to determine his mental competency shall be conducted by the hearing panel, hearing examiner or other official (including a U.S. Probation Officer) designated by the Regional Commissioner.

(b) The hearing examiner(s) or designated offcial shall receive oral or written psychiatric or psychological testimony and other evidence that may be available. A preliminary determination of mental competency shall be made upon the testimony, evidence, and personal observation of the prisoner (or parolee). If the examiner(s) or designated official determines that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not mentally competent, the previously scheduled hearing shall be temporarily postponed.

(c) Whenever the hearing examiner(s) or designated official determine that a prisoner is incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Commissioner for review. If the Regional Commissioner concurs with their findings, he shall order the temporarily postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner has recovered sufficiently to understand the nature of an participate in the proceedings, and in the case of a parolee may order such parolee transferred to a Bureau of Prisons facility for further examination. In any such case, the Regional Commissioner shall require a progress report on the mental health of the prisoner at least every 6 months. When the Regional Commissioner determines that the prisoner has recovered sufficiently, he shall reschedule the hearing for the earliest feasible date.

(d) If the Regional Commissioner disagrees with the findings of the hearing examiner(s) or designated official as to the mental competency of the prisoner, he shall take such action as he deems appropriate.

§ 2.27 [Amended]

5. In § 2.27 *Appeal of original jurisdiction cases* paragraph (a) is revised to clarify the consequence of a tie vote by the Commissioners:

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the date of the decision on a form provided for this purpose. Appeals will be reviwed at the next regularly scheduled meeting of the Commission provided they are received thirty days in advance of such meeting. Appeals received in the office of the Commission's National Appeals Board in Washington, D.C., less than thirty days in advance of a regularly scheduled meeting will be reviewed at the next regularly scheduled meeting thereafter. A quorum of five commissioners shall be required and decisions shall be by majority vote. In the case of a tie vote, the previous decision shall stand. This appellate decision shall be final.

* * * * *

§ 2.32 [Amended]

6. In § 2.32 *Parole to local or immigration detainers* paragraph (a)(2) is revised to read as follows:

(a) * * *

(2) "Parole to the actual physical custody of the detaining authorities or an approved plan." In this event, release is to be effected regardless of whether the detaining officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

* * * * *

Paragraph (b) is revised to delete the words "or not" as redundant:

* * * * *

(b) When the Commission wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Commission shall order the following: "Parole to the actual physical custody of the immigration authorities or an approved plan." In this event, release is to be effected regardless of whether immigration officials take the prisoner into custody, providing there is an acceptable plan for community superivison.

7. Section 2.38 *Community Supervision by United States Probation Officers* is revised to clarify the reference to mandatory releasees as persons released "as if on parole" pursuant to 18 U.S.C. 4164:

§ 2.38 Community Supervision by United States Probation Officers.

(a) Pursuant to sections 3655 and 4203(b)(4) of Title 18 of the United States Code, United States Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to persons released by parole or as if on parole (mandatory release) under the Commission's jurisdiction.

(b) A parolee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.42 [Amended]

8. In § 2.42 *Probation Officer's Reports to Commission*, is amended to delete the words "or mandatory releasee" as unnecessary, since the Commission has defined at § 2.1(g) that when it uses the term "parolee", it refers to both parolees and "mandatory releasees".

§ 2.43 [Amended]

9. In § 2.43 *Early termination* subparagraphs (2) and (3) of paragraph (a) are revised to read as follows:

(a) * * *

(2) Two years after release on supervison, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

(3) Five years after release on supervision, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in 18 U.S.C. 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law. Such hearing may be conducted by a hearing examiner or other official designated by the Regional Commissioner.

* * * * *

§ 2.46 [Amended]

10. In § 2.46 *Execution of warrant and service of summons* paragraph (a) is amended to substitute "parolee" for "prisoner".

§ 2.47 [Amended]

11. In § 2.47 *Warrant placed as a detainer and dispositional review* subparagraph (3) of paragraph (b) is revised to read as follows:

* * * * *

(b) * * *

(3) Order a revocation hearing to be conducted at the institution in which the parolee is confined by a hearing examiner or an official designated by the Regional Commissioner.

§ 2.48 [Amended]

12. In § 2.48 *Revocation; preliminary interview* is amended to substitute the term "parolee" wherever the term "prisoner" now appears (paragraphs (b), (c) and (g)).

In addition, paragraph (f) is revised to read as follows (by substituting "by a parolee" for the phrase "on parole or mandatory release"):

* * * * *

(f) Conviction as probable cause: Conviction of a Federal, State, or local crime committed subsequent to release by a parolee shall constitute probable cause for the purpose of this section and no preliminary interview shall be conducted unless otherwise ordered by the Regional Commissioner.

* * * * *

§ 2.49 [Amended]

13. Section 2.49 *Place of revocation hearing* is amended to substitute the term "parolee" wherever the term "prisoner" now appears (paragraphs (a), (c), and (d)).

In addition, paragraph (c) is revised to read as follows:

* * * * *

(c) A parolee who voluntarily waives his right to a local revocation hearing, or who admits any violation of the conditions of his release, or who is retaken following conviction of a new crime, shall be given a revocation hearing upon his return to a Federal institution. However, the Regional Commissioner may, on his own motion, designate a case for a local revocation hearing.

* * * * *

Finally, the reference in paragraph (d) to § 2.48(d)(2) is corrected to read "§ 2.48(e)(2)".

§ 2.52 [Amended]

14. In § 2.52 *Revocation decisions,* the third sentence of paragraph (c)(2) is revised to read as follows (deleting the parenthetical phrase "in which the Commission makes an independent finding of violation of conditions of parole" as redundant):

* * * * *

(c) * * *

(2) * * * If such conviction occurs subsequent to a revocation hearing, the Commission may reopen the case and schedule a further hearing relative to time forfeiture and such further disposition as may be appropriate.

§ 2.56 [Amended]

15. In § 2.56 *Special parole terms,* paragraph (a) is revised to read as follows:

(a) The Drug Abuse Prevention and Control Act, 21 U.S.C. Sections 801 to 966, provides that, on conviction of certain offenses, mandatory "special parole terms" must be imposed by the court as part of the sentence. This term is an additional period of supervision which commences upon completion of any period on parole or mandatory release supervision from the regular sentence; or if the prisoner is released without supervision, commences upon such release.

* * * * *

In paragraph (c) the term "parolee" is substituted for the term "releasee" in the two instances it occurs, and the phrase "he will" becomes "he may". In addition, the phrase "of his basic supervision period" is deleted.

In paragraph (d) "the prisoner" becomes "a prisoner" and the term "inmate" becomes "prisoner".

The first sentence of paragraph (e) is revised to read as follows:

* * * * *

(e) If regular parole or mandatory release supervision is terminated under § 2.43, the Special Parole Term commences to run at that point in time. * * *

Dated: January 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1344 Filed 1-12-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART VII



FEDERAL COMMUNICATIONS COMMISSION

■

RADIO BROADCAST SERVICES

Rules Changes Relating to Noncommercial Educational FM Broadcast Stations

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20735; RM-1974; RM-2655; FCC 78-919]

PART 73—RADIO BROADCAST SERVICES

Rules Changes Relating to Noncommercial Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: In response to several petitions for reconsideration the Commission issued a Memorandum Opinion and Order relaxing one aspect of the recently adopted rule regarding minimum operating schedule for noncommercial educational FM stations and affirmed the other changes in the rules affecting these stations. In addition, the Memorandum Opinion and Order clarified and explained certain other aspects of the earlier decision.

EFFECTIVE DATE: February 21, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: December 21, 1978.

Released: January 11, 1979.

In the matter of changes in the rules relating to noncommercial education FM Broadcast Stations; Memorandum opinion and order [see also 43 FR 47975, October 18, 1978].

1. The purpose of this document is to respond to the issues raised in the petitions for reconsideration [1] of the actions taken in the *Second Report and Order* [2] in this proceeding.

2. In the *Notice of Proposed Rule Making* in this proceeding, 41 FR 16973 (March 17, 1976), the Commission raised a number of issues concerning possible improvements in the manner in which noncommercial educational FM stations operate on the 20 FM channels (Channels 201-220) [3] set aside for such use. Based upon the record developed in this proceeding and the Commission's experience in licensing these stations, the Commission concluded that certain rule changes were necessary. These changes were made in the *Second Report and Order.* Other matters continue under consideration in the proceeding and await further action by the Commission.[4]

3. The central reason which led the Commission to initate this proceeding and to take the actions it did was its concern that these channels were not being used in an effective and efficient manner. Interest in such stations had grown with the result that in many parts of the country there was no available spectrum space to accommodate new educational FM stations or increases in coverage by existing stations. The pattern of use, however, appeared to be an inefficient one. The Commission concluded that it was important to encourage improved efficiency since large portions of the country did not receive noncommercial educational FM service. With these points in mind the Commission attempted to find ways of improving the pattern of channel use.

4. In addition to its concern about these allocations issues, the Commission had been troubled by the fact that many existing stations operated only a few hours per day even though all were licensed to operate 24 hours per day. In fact, some were known to be off the air for extended periods, operating only a few hours per week when they were on the air. This created a particular problem since there often was no open frequency space for new stations. Thus, as matters then stood, there was no opportunity for someone else to step forward to provide the needed service during hours when the existing station was off the air. In the *Second Report and Order* the Commission dealt with both of these areas of concern and was able to take actions which were designed to improve the efficiency of educational FM channel usage.

5. One of the problems had arisen because the assignment of stations had proceeded on a demand system without any attempt (except more recently in the Mexican border area) to have a Table of Assignments of channels to particular localities or, in any part of the country, to require the use of at least minimum facilities. The consequence was an inefficient pattern of assignments. One of the largest problems centered on the effect 10-watt stations had in precluding the establishment or extension of operations to bring service where it was needed. On the other hand, the Commission recognized the service these stations provided. Thus, it did not want 10-watt operations off the air so long as another way could be found to deal with the problem.[5] In coming to grips with this issue the Commission operated with two sets of concerns in mind. The first was the inefficiency point, but the other was a sense of fairness to the 10-watt stations—built and operated in good faith—and to their listeners. How, the Commission wanted to know, could recognition be given to both sets of concerns. The Commission's response was to devise a system which it expected to provide for the continued existence of 10-watt stations in virtually all cases but which attempted to minimize their negative impact on allocations by requiring them to change channel and by ending their protection against interference. For the 10-watt stations not wishing to change channel, time was provided so that they could avoid this process by increasing power to the Class A minimum of 100 watts. They were given about a year and a half in which to file for such an increase. Then, commencing with the group of renewal applications to be filed on February 1, 1980, for licenses expiring on June 1, 1980, special channel change procedures were to be followed.

6. The goal was for as many 10-watt stations as possible to move to open space on commercial channels,[6] subject to a requirement that no interference be caused to any commercial FM station. If this could not be done, the 10-watt station would be required to

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[1] Formal petitions for reconsideration were filed by the Intercollegiate Broadcasting System, Inc. ("IBC"), the American Council on Education ("ACE") and Westchester Community College ("Westchester"), Bryant College, Ossining High School and Abraham Baldwin Agricultural College filed informal requests for reconsideration. The National Federation of Community Broadcasters opposed reconsideration and Westchester replied to this opposition.

[2] The document was adopted by the Commission on June 7, 1978. It was released by it on September 1, 1978, and published in the FEDERAL REGISTER on September 6, 1978, 43 FR 39704.

[3] Paragraphs 3 through 8 of the *Notice of Proposed Rule Making* discuss the history of noncommercial FM broadcasting and rule making actions dealing with the establishment and operation of these stations on 20 reserved FM channels.

[4] These include the possible establishment of a Table of Assignments and the other matters discussed in the *Further Notice of Proposed Rule Making,* 43 FR 27682 (1978).

[5] At first, it appeared possible that no satisfactory alternative was available. Years ago we warned of the possible need to end 10-watt operations. Thus, in rule making Docket 14185 we observed that "In our view, * * * the time may well be at hand when proper use of the increasingly crowded educational FM band requires restrictions on the future authorization and continuance of 10-watt operations * * *" 31 FR 14755 at 14756 (1966). Although no action was taken on this issue in Docket 14185, the issue remained an important one. In fact, recent developments have given it a greater sense of urgency.

[6] At this point it is not yet clear how this process will function in the Canadian and Mexican border areas—see paragraph 29 of the *Second Report and Order* and § 73.512(a)(1) of the rules.

move to the newly created FM Channel 200 (87.9 MHz). If neither of these approaches could be followed, the 10-watt station would be required to move to the reserved educational channel where it would cause the least amount of preclusion to the establishment of new stations or power increases by existing stations. In the latter case, those already on that channel could remain there. Each station would go through this process as its renewal date approached, so that the changeover process would take three years.[7] In the meantime, no new 10-watt stations would be established, as a "freeze" on such filings had been imposed by the *First Report and Order* in this proceeding. As will be discussed, several parties object to at least some of these requirements which were applied to 10-watt stations.

7. Just as with the channel use question, the issue of a minimum operating schedule involved balancing conflicting interests. On the one hand, the Commission was concerned that a number of stations operated only a few hours per week. At the same time, it recognized that there would be a severe impact on these stations if a too stringent requirement were invoked. In fact, such a requirement might force some stations off the air. To avoid such a result the Commission decided to enact a rather limited minimum operating schedule requirement of 36 hours per week (consisting of at least 5 hours per day on at least 6 days of the week).[8] Necessarily, this requirement by itself could offer only partial response to the concern about limited hours of operation. This led the Commission to conclude that something else was needed to encourage greater use of the channel by the existing licensees. The Commission decided upon rules to foster time sharing which make it possible for another eligible entity to share the frequency on a time-sharing basis if the original licensee did not effectively use its licensed hours. Under the rule adopted, licensees desiring to avoid the possibity of time sharing had to operate 12 hours per day every day of the year. The minimum schedule requirement is scheduled to go into effect on January 1, 1979, and mandatory time sharing becomes possible if the 12 hour per day requirement is not met by January 1, 1980.[9]

8. Although some of the actions taken by the Commission form the subject matter of the petitions for reconsideration, others have provoked no response. Thus, while the process of channel changes has received some criticism, the idea that commercial channels would be used has not. Nor did the creation of Channel 200 or its use for 10-watt stations give rise to objection. Similarly, the engineering standards for Channel 200 received no mention. Finally, the idea of a minimum schedule of some variety was not disputed. Nor was using a share-time concept. Points of contention about these latter points, however, did remain.

9. In effect, three basic objections were raised to the actions taken. The first was procedural in nature and was directed to the adequacy of the Commission's notice and invitation to comment. Substantively, there were two basic objections: first, that our actions to deal with the 10-watt situation imposed an unfair or excessive burden on these stations and, second, that aspects of the minimum operating schedule and share-time requirements posed similar problems of burdensomeness. These arguments will be discussed in the order mentioned. Then, we will discuss other points in the *Second Report and Order* which require clarification even though no reconsideration issue, as such, has been raised. We think that the clarification we offer will prove helpful to parties affected by our decision.

10. In filing its petition for reconsideration, Westchester explains that it only recently obtained a construction permit and did not begin broadcasting until early 1978. Noting that it was not represented by legal counsel when comments were being sought in this proceeding, Westchester indicated that it had not been able to participate by filing comments. It asserts that it should be given that opportunity now. In Westchester's view, the Commission's procedural approach to the case was inadequate. It asserts that the Commission should have affirmatively sought out the views of affected parties, especially in view of what it sees as the consequence of the Commission's action, a possible death knell for many Class D stations. According to Westchester, the small stations most affected by the rule changes were unable to make their views effectively known, with the result that the decision making process was undermined.

11. The NFCB opposition disputes Westchester in these regards. NFCB states that in the one year period during which comments were being received by the Commission, there was extensive discussion in the educational radio community, with IBS playing a key role in the proceeding on behalf of its low-power member stations. NFCB insists that contrary to Westchester's assertions, there have been extensive filings on behalf of 10-watt stations. More, in fact, it says, than on behalf of any other definable group. NFCB also disputes Westchester's contention that the Commission did not consider the alternatives Westchester now urges upon us. NFCB insists that the Commission did consider just such proposals as these or their equivalent.

12. Westchester's reply again argued that the Commission did not consider all of the alternative proposals mentioned in the petition for reconsideration. To the extent such proposals were considered, it contended that the Commission did not give adequate reasons for rejecting the alternatives it did not follow or for deciding the case as it did.[10]

13. We cannot agree with Westchester that the Commission did not take the necessary procedural steps to adopt these rules. First of all, on the question of adequacy of notice, we followed all legally required procedures through publication in the FEDERAL REGISTER. However, we did not limit ourselves to this form of notification. The *Notice of Proposed Rule Making* and/or the News Release about it were given wide dissemination to various interested individuals and groups. That is not to say that we singled out Westchester for separate attention, but the Commission was under no obligation to do so. Westchester's failure to have legal counsel at the time and its inability to participate at the time are matters for which it must assume responsibility. They do not affect the adequacy of the Commission's notice at all. We would have welcomed Westchester's participation, but it cannot avoid the consequence of its own failure to file. Even without this filing, the record was a full and complete one. As NFCB observed, many other 10-watt stations did respond with much the same viewpoint as Westchester's. Clearly the record included—and the Commission fully considered—the views of 10-watt stations. Also, in considering the views of 10-watt stations, it is not necessary for us to have listed every single alternative that each party offered or might have offered. The record clearly shows that we did consider their arguments and thoughtfully balanced the competing interests involved in reaching our deci-

[7] Discussion of the standards applied to the channel change process and other technical aspects of these requirements is contained in paragraphs 23-32 of the *Second Report and Order*.

[8] The minimum operating schedule, on the other hand, did not apply to stations licensed to educational institutions when the school in question was in recess or vacation.

[9] Earlier, voluntary, time sharing was also encouraged.

[10] Westchester also responded to a remark in the NFCB filing which referred to the holding of discussions and debates on this subject. Westchester does not think such discussions can be relied on if they were between the parties. It expressed the hope that such discussions would not have been between the Commission and parties to the proceeding, as that would have involved what it sees as improper *ex parte* contacts. We do not understand NFCB to have intended any such reference.

sion. Even a casual reading of the decision indicates that we gave great weight to the concerns of the 10-watt stations, a fact which will become clear in the discussion below.

14. Westchester, IBS and ACE all express concern about the impact our action could have on 10-watt stations. Westchester asserts that the rules may be the death knell for Class D stations.[11] Westchester suggests five alternatives that it thinks could have been used to better effect than the procedures chosen by the Commission. Under the first, stations would be classified according to the number of people living inside their 1 mV/m coverage area. It suggests that those in what it calls the Class D category (under 1,000 persons) and the Class C category (1,000-10,000 persons) could be treated as secondary stations. Westchester asserts that this approach is preferable, arguing that it is more sensible to use a standard based on people (rather than area) served. Alternative 2 would premise the classification on the number of hours operated, with those in Class D (36 hours per week) and Class C (36 to 60 hours per week) treated as secondary. Alternative 3 would use a combination of alternatives one and two. Alternative 4 would use the factor of public service or public affairs programming as well as the previously mentioned factors in determining the classification. Finally, under Alternative 5, Westchester would follow a variation on the Commission's approach (that is one based on the station's facilities) but would employ the station's effective radiated power and antenna height to determine the stations affected.[12]

15. We cannot agree that Westchester's classification systems, whatever their descriptive value, would offer any benefits in terms of responding to the Commission's concern about efficient frequency usage. Contrary to Westchester's view expressed in Alternative 1, there is no necessary correlation between the number of persons served and the efficiency of the operation in question. Westchester ignores the fact that often high power stations represent the only way to bring educational FM service to a large sparsely settled area. Westchester's approach would put such operations at a severe disadvantage compared to a low power operation in a more densely populated area. While this latter calculation based on numbers served at first glance seems efficient, it only masks the inate inefficiency of the 10-watt station's coverage when compared to its potential for causing interference. The result of labeling the inefficient as efficient is to preclude taking steps to improve matters. Consequently, Alternative 1 must be rejected.

16. We agree that consideration of the hours of operation is important, but we do not agree with Alternative 2 which would use this to determine which station operates on which channel. The engineering inefficiency remains even if the station operates many hours. We believe our approach could bring fuller use of available hours without confusing two separate issues. Because of our rejection of Alternatives 1 and 2, Alternative 3 which is a combination of the other two also must be rejected. Likewise, we are unpersuaded by Westchester's suggestion (Alternative 4) that we base the classification system on the amount of public service programming. Aside from the obvious problems involved in entering the sensitive programming area at all, the method would not function effectively. Necessarily, the station's classification would change as did its program percentages, creating uncertainty. The only way to avoid this—namely to require that the percentages be fixed—raises its own problems. The last suggestion (Alternative 5), to use effective radiated power rather than transmitter power output for the determination is really little different from what the Commission did use. Under the Commission's approach, the rules are applied to Class D stations (that is, those with a transmitter power output of 10 watts). If the station already has an ERP that far exceeds 10 watts, then the consequence is that it would face a lesser burden in increasing power to avoid the necessity to change channel. Although the particulars of our requirements are not the same as Westchester's, we do classify stations based on effective radiated power and then add a final category of Class D (secondary) stations.

17. One final observation needs to be made about Westchester's pleading. Contrary to its assertion on reconsideration, there is no obligation on the part of the Commission to carry the burden of proof to convince that party of the basis for not adopting its suggestions. The burden is on Westchester here to demonstrate error or at least to persuade the Commission of the superiority of its method. Clearly, it has not met its burden.

18. The principal thrust of the IBS petition is that the Commission has not given adequate recognition to the importance of Class D stations.[13] According to IBS, without an independent study of problem service by various stations, spectrum efficiency alone is not a sufficient basis for the Commission's actions. IBS contends that local service is the essence of broadcasting, and it asserts that urban areas are best served by a mix of high and low power educational FM stations. Even in rural areas where wider coverage might be thought appropriate, IBS fears that local concerns could be subordinated to national or regional ones. In addition, IBS is concerned that following the requirements of the newly adopted Commission rules could be burdensome to 10-watt stations, many of which it says are operated with volunteer staffs. Because of its opinions of the possible impact of the rules, IBS suggests that the Commission change its mind and follow an alternative approach.

19. In the engineering area IBS would require 10-watt stations to move *only* when they are blocking the establishment of a *new* higher powered station and only *after* the requisite construction permit for the station has been granted. Also, under IBS's system, the permittee for the higher power station would have to pay the costs of the 10-watt station's channel change. IBS feels that the higher power stations are better able to absorb the costs, if the change needs to be made, and that changes in frequency should not be required absent a showing of need. Rather than delay establishment of such higher power stations, IBS believes that the result of its suggestion would be a reduction in the flow of channel change proposals and that this might improve the speed in which applications for higher power stations are processed.

20. Although it opposes most aspects of reconsideration, NFCB does agree with making one change. NFCB would allow 10-watt stations to remain on their present channels if they can show that one or more channels are available for full power operation in their cities of license. NFCB believes that in some areas channel space is available and does not think it neces-

[11] This statement appears to be connected to its incorrect reading of the provisions of § 73.512. That rule does not require a 10-watt station unable to move to the commercial part of the FM band or to Channel 200 to leave the air if another station wishes to "push them aside." Instead, that rule simply states that Class D stations remaining on the educational channels (that is, those which have not moved to a commercial channel or Channel 200) are not protected against interference. The reference in paragraph (d) to termination of operation if interference results has relevance only to Channel 200 or the commercial FM channels. In the latter case, there is a possibility that changes in FM stations or assignments could produce such a consequence, but as we noted in paragraph 27, we hope this would be rare indeed. It is even less likely to affect those moving to Channel 200. To clarify matters we are making an editorial change in the rule.

[12] The Commission's method was to apply the channel change requirement to Class D stations, that is, those which operate with 10-watts transmitter power output.

[13] Many of the same points are echoed in the ACE petition as well as in the informal filings.

sary to require changes in channel in such cases.

21. The issue of when to call for a change in frequency was one of the most difficult we had to resolve. Although we were concerned about the impact on 10-watt stations of being asked to move in advance of the expression of need, we concluded that any other system would not be feasible. We have examined the matter and again been forced to conclude that the alternatives are not satisfactory. For example, it would introduce great delays in waiting for the change process to take place if it could not begin until the specific request were filed. Our experience with changes in channels of existing commercial FM stations suggest that years can go by before the change takes place. Perhaps even worse, doing as we have been urged would not permit any long-range or overall planning of spectrum use. It would be a hit-or-miss, individual case, approach. Our experience has shown that this cannot be relied on to produce the best results. There is another problem with IBS' proposal. It makes no provision for applications to increase the facilities of existing stations. Such extensions of coverage to unserved areas is a vital matter. While the NFCB methodology involves less of a problem in these regards, it offers less relief to 10-watt stations and in fact imposes the biggest part of the anticipated burden of the channel change process: The need to conduct the professional engineering study.

22. The reimbursement concept appears attractive at first blush, but there would be no way to arrange reimbursement in advance of proposed use nor any way to apportion the relative share of benefits derived to the present and future beneficiaries. Also, since the time of any such reimbursement could be delayed until the party stepped forward, it would be of little benefit to the station at the time it made the change. Finally, there is one point IBS ignores. If we wait, as it suggests, there might well be no channel available to which to move. This would present the Commission with a direct choice between the 10-watt operation's continuation and the more powerful station's establishment. The disadvantage to 10-watters of being caught in such a predicament is obvious. In fact, then, our method may provide the 10-watt stations with greater protection and greater confidence in being able to continue operating.

23. The Commission has no desire to terminate the operation of 10-watt stations, and as explained above in footnote 11, Section 73.512 needs to be clarified to make it clear that the Commission has taken every possible step to protect the ability of these stations to continue their operation. Even so, it must be recognized that there will be costs and inconveniences for stations having to change channel. We hope that they will be modest. The costs of increasing to 100 watts or to change channel are relatively low to start. One way of reducing costs further would be for all affected stations in an area to join in a study of how best to work out the necessary changes. In this way, they could reduce costs by sharing the expenses for the engineering studies involved. Although we have tried to be mindful of the costs, we cannot ignore the importance of substantial gains which can be made possible through use of this process. We have already received a filing which verifies our belief that 10-watt stations will fit nicely in open spaces in the commericial FM band. With all of these points in mind it becomes clear that the private interest of these licensees in remaining where they are cannot be permitted to obscure the public interest benefits in following the approach outlined in the new rules, and they will be affirmed, with the clarification noted above.

24. IBS, ACE and others have taken issue with our operating schedule requirement. ACE supports our providing an exemption for vacations and recess periods as school stations, but it asserts that this alone is inadequate. In its view, recognition also needs to be given to the fact that a majority of full-time students may not be in attendance even though the school is itself technically in session. ACE would count summer sessions and other examples as vacation periods under the rule so that the station would not have to be on the air then at all. It also urges us to permit an averaging of the hours operated over the year for the purpose of meeting the 12 hour per day level necessary to avoid time sharing.[14] IBS expressed similar views on both points in its pleading. In addition, in the informal filings and otherwise, the Commission has repeatedly heard from licensees connected with primary and secondary education that the six-day-a-week requirement would have disastrous effects. They point out that not only are schools not in session on Saturday or Sunday but that the buildings themselves are closed. They insist that opening a building solely to operate the station would introduce great costs in addition to those necessary for operation of the station itself. Some licensees even question whether they would even be able to gain entry to these (perhaps even unheated) buildings. Thus, we are asked to interpret the weekend as vacation period under the present language of the rule or to take other steps to give recognition to this problem. In addition, several parties have informally opposed the 36-hour minimum schedule itself and asked us to remove this requirement or at least reduce it from the present 36 hours.

25. Our choice of the 36-hour minimum was based on our wish to use a low initial requirement combined with an incentive for additional hours through use of the time-sharing mechanism. The vacation exemption, too, was designed to avoid a severe initial impact. We did not think it was realistic to expect them to operate when the school is not in session. Although there are legitimate public concerns when a station is off the air for the entire weekend, no matter how good the cause, part of that concern is mollified by time sharing. Even more to the point, if we could accept the station's being off the air for the much longer period of a summer vacation, then there is no reason to refuse to accept the weekend as well. On reflection we agree that the same reasoning that supports the vacation exemption supports allowing 5-day a week operation for these stations instead of the present 6. Therefore, we will change the rule to permit them to reach the 36-hour level through operation on 5 days of the week.

26. We are not persuaded, however, by the suggestion that we exempt summer sessions and other times when the school is in operation but a majority of full-time students may not be in attendance. Unlike recess periods, the staff is on hand in summer sessions, the buildings are open, and at least some (if not all) of the students are on hand. We cannot agree that an exemption should automatically apply to these cases and we will reject that part of the petitions.

27. Finally, we turn to the few informal objections to the time sharing requirment which we have received. Time sharing comes into play if the station does not operate 12 hours per day year-round. This requirement was adopted based on our view that recognition must be given to the extreme scarcity of spectrum space and the need to use it in an effective manner. As pointed out here and explained at length in paragraphs 33-50 of the *Second Report and Order*, we thought it best not to do this through imposing a stringent minimum schedule obligation. Instead, we decided to give stations time (until 1980) to develop a full schedule and then, and only then, to call for time sharing if the station did not reach an essentially full-time use of the frequency. Nothing more than sharing is involved. The original licensee does not lose its license. The only effect is to require it to share its

[14] A typographical error, corrected through issuance of an *Errata* on October 12, 1978, pointed out that the Commission did not intend to permit such averaging.

frequency so that it can be given effective use. To exempt vacation periods from this requirement would defeat the goal we are striving to achieve as the use of a vacation exemption is not consistent with the concept of full-time use. Stations cannot have it both ways. If they want the frequency to be theirs alone, they must be ready to use it to the reasonable level we specified, a level which if anything is a lenient one. If they do not, they should not be in a position to preclude another from offering additional hours of service. Therefore, these requests will be denied.

28. The NFCB opposition drew our attention to one point which needs clarification. At one place in the *Second Report and Order* we indicated that 10-watt stations had until January 1, 1980, to file the necessary application to increase facilities to the 100-watt level and thus avoid the channel change process. Elsewhere, we indicated that renewals would be granted for a license with secondary status. To NFCB there appears to be a conflict between the two. Our intention was to grant all renewals on a secondary basis *and* to provide an opportunity to increase facilities. It was not our intention to guarantee the ability of every 10-watt station to be able to increase, and a number already are barred from doing so by interference considerations. Rather, the period for filing a power increase had as its purpose providing a method of avoiding the need to change channel. Its purpose was not to protect 10-watt stations against receiving interference. While we did agree to exempt stations from the need to change channels if they reached the 100 watt level, that decision was not based on the efficiency of a 100-watt station. Rather, it represented the Commission's willingness to permit this lesser inefficiency under the circumstances. As a result, we cannot follow NFCB's urgings and protect the ability to increase to the 100-watt level when doing so may foreclose another much more efficient operation.

29. *Accordingly, it is ordered,* That effective February 21, 1979, Part 73, of the Commission's rules and regulations is amended as set forth below. Authority for this action is found in Sections 4(i), and 303(r) of the Communications Act of 1934, as amended.

30. *It is further ordered,* That the petitions for reconsideration are granted to the extend indicated and in all other respects are denied.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO,

Secretary.

1. Section 73.512(d) is amended to read as follows:

§ 73.512 Special procedures applicable to Class D noncommercial educational stations.

* * * * *

(d) Class D noncommercial educational (secondary) stations (see § 73.506(a)(2) will be permitted to continue to operate only so long as no interference (as defined in § 73.509) is caused to any TV or commercial FM broadcast station. In the event that the Class D (secondary) station would cause interference to a TV or commercial FM broadcast station after that Class D (secondary) station is authorized, the Class D (secondary) station must cease operation when program tests for the TV or commercial FM broadcast station are authorized. The Class D (secondary) station may apply for a construction permit (see § 1.533(a)(6)) to change to another frequency or antenna site where it would not cause interference (as defined in § 73.509). If the Class D (secondary) station must cease operation before the construction permit is granted, an application for temporary authorization (pursuant to § 1.542 and 47 U.S.C. 309(f)) to operate with the proposed facilities may be submitted; where appropriate, such temporary authorization can be granted.

2. Section 73.561(a) is amended to read as follows:

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. Beginning January 1, 1979, all noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

* * * * *

[FR Doc. 79-1471 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART VIII



DEPARTMENT OF ENERGY

■

STANDBY MANDATORY CRUDE OIL ALLOCATION AND REFINERY YIELD CONTROL PROGRAMS

Final Standby Rule

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-4]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Standby Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts two special rules to establish a standby crude oil allocation program. The rules provide for: (1) A standby mandatory crude oil allocation program; and (2) special pricing provisions governing mandatory sales under the program. In the event of a crude oil supply shortage, the standby rules may be made effective when the emergency allocation provisions of the Agreement on an International Energy Program are activated (unless the Secretary of Energy determines otherwise) or by order of the Administrator of the ERA. These standby rules when activated would distribute available crude oil supplies equitably among refiners by means of a crude oil buy/sell list that generally would permit each refiner to operate at the same monthly rate relative to a recent 12 month base period.

The price for buy/sell transactions would be the actual cost of the particular crude oil sold, if the purchasing refiner's capacity is more than 50,000 barrels per day, and would be the seller's weighted average cost of imported oil, with certain adjustments, if the buyer's capacity is 50,000 barrels per day or less.

The Administrator of ERA will have several options under the program adopted today in standby status. First, the Administrator could grant emergency allocations under the present buy/sell program to *any* refiner with a demonstrated significant shortfall in crude oil supplies, including large independent refiners and major refiners. Second, the Administrator will have the option of implementing the standby regulations only for major and large independent refiners, while continuing to use the present buy/sell program for small refiners. Finally, he could also make the standby regulations applicable to all refiners, thus replacing the present regulations entirely. In that case he could also, depending on the severity of the supply shortage, exempt small refiners with a refining capacity not exceeding 50,000 barrels per day from any requirement to sell crude oil under this program.

DATES: Adopted immediately in standby status. Further comments due on or before March 16, 1979.

ADDRESS: Send comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, NW., Docket No. ERA-R-78-4, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Room B110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170;

Robert G. Bidwell, Jr. (Office of Fuels Regulation), 2000 M Street, NW., Room 6128, Washington, D.C. 20461, (202) 254-9707;

Robert J. Kane (Office of Regulations & Emergency Planning), 2000 M Street, NW., Room 2304, Washington, D.C. 20461, (202) 254-7200;

Michael Paige or Samuel M. Bradley (Office of General Counsel), 12th and Pennsylvania Avenue, NW., Room 5138, Washington, D.C. 20461, (202) 633-8622.

SUPPLEMENTARY INFORMATION:

I. General Discussion.
II. Background.
III. Special Rules Adopted.
A. Mandatory Crude Oil Allocation Program.
B. Refinery Yield Control Program.
C. Supplier/Purchaser Rule and Entitlements Program.
D. Allocated Crude Oil Pricing Program.
IV. Additional Comments Requested.

I. General Discussion

On February 10, 1978, the DOE issued a notice of Proposed Rulemaking and Public Hearing which proposed the two special standby rules adopted today (43 FR 6611, February 15, 1978). A public hearing was held on June 6, 1978 at which 13 persons testified. In addition, DOE received 15 written comments regarding the proposed special rules.

Comments on the proposed special rules included 16 from major refiners, 7 from small refiners, and 5 from interested associations and utilities. With respect to the standby allocation rule, the comments generally suggested only technical revisions. The pricing provisions, however, were discussed in detail and a range of options for the pricing of crude oil subject to these rules was presented to the DOE. As is discussed below, the final special price rule as adopted today incorporates many of the suggestions discussed by the commenters during the rulemaking process.

On August 25, 1978 (43 FR 38848, August 31, 1978), the ERA announced a second public hearing and solicited additional comments on this rulemaking. The specific issue on which comments were sought was whether crude oil should be allocated to product importers for processing for their account to help alleviate a critical product shortage in the region or regions served by the importers. Twenty-three firms including 16 refiners and 2 terminal operator trade associations submitted comments. The 2 terminal operator trade associations and one other commenter favored such allocations. All of the refiners and 2 non-refiners opposed allocating crude oil to product importers. Two of the commenters did not address this issue.

The purpose of this rulemaking is to develop a crude oil buy/sell program that would be effective in the event of a crude oil supply shortage. The current buy/sell program would not be appropriate during a supply interruption because it only addresses certain small refiners' current needs for additional crude oil supplies in the context of adequate supplies world-wide. Therefore, the DOE developed the special rules adopted today, which will be made effective only in case of a significant shortage in the supply of crude oil. The Administrator of ERA will have discretion to implement the standby regulations in phases, depending upon the severity of the shortage. In one case, he could amend the present buy/sell program regulations set forth at 10 CFR 211.65 to provide for emergency allocations to any refiner that has a demonstrated significant shortfall in crude oil supplies, regardless of whether the refiner is subject to § 211.65, or is classified as a refiner-buyer or refiner-seller under the program. In another case, the Administrator could implement the standby regulations only for major and large independent refiners and continue to use the present buy/sell program for small refiners. Finally, he could implement the standby program such that it entirely replaces the current regulations and allocates available supplies to all refiners. Under this option, depending on the extent of the supply shortage, he could exempt small refiners whose capacities do not exceed 50,000 barrels per day from any sales requirement.

II. Background

The first crude oil allocation program was promulgated in January 1974 in order to alleviate supply shortages of crude oil, residual fuel oil and refined petroleum products. The Federal Energy Office (FEO) undertook to carry out the express mandate of

Congress is Section 4(a) of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159 (EPAA), that the President impose temporary mandatory allocations of available supplies of crude oil, residual fuel oil and refined petroleum products in amounts and at prices to be specified by regulations. The goal of the allocation program was to provide for overall equitable distribution of available crude oil and refined product supplies in order to mitigate the adverse economic consequences of the shortages.

There were two major elements to FEO's original crude oil allocation program. The first was the so-called supplier/purchaser rule which froze in place all supplier/purchaser relationships for domestic crude oil that existed on December 1, 1973. The second element of the program, which is more relevant for present purposes, was the crude oil buy/sell program. The initial crude oil buy/sell program mandated certain sales of crude oil from one refiner to another in order that each refiner would have access to available supplies of crude oil at the national average supply-to-capacity ratio for all refiners. The national average supply-to-capacity ratio was calculated by the FEO based on refinery capacity and estimated crude oil supplies. Crude oil supplies were estimated based on the refiner's current stocks and expected deliveries of crude oil over a three-month allocation period. Refiners with a supply-to-capacity ratio greater than the national average were required to sell their crude oil supplies that were in excess of the national average supply-to-capacity ratio. Refiners with less than the national average supply-to-capacity ratio were entitled to purchase sufficient crude oil from those refiners with such excess supplies so as to increase their supply levels to the national average supply-to-capacity ratio.

The maximum price of crude oil sold pursuant to these rules was calculated by taking the weighted average price of all crude oil delivered to a seller in either Petroleum Administration for Defense (PAD) Districts I-IV or in PAD District V, depending on where the sale was made, and adding to that amount a six percent handling fee plus certain adjustments for transportation costs and gravity differentials. In addition, refiner-sellers were permitted an 84-cent-per-barrel pass-through (for each barrel of crude oil sold pursuant to the program) on products refined by the refiner-seller to allow the refiner-seller to recoup an approximation of the profit that would have been made by refining each barrel of crude oil required to be sold under the allocation program.

The regulations provided for publication by the FEO of a "buy-sell list" showing required sales volumes and purchase opportunities for each refiner. This buy-sell list was the basis for allocation sales for the first quarter. At the beginning of each subsequent quarter, the FEO was required to publish a new buy-sell list that incorporated new projections made for refinery capacity and supply availability in that quarter. In addition, any differences between the estimated available supply of crude oil for a refiner in the first quarter and that refiner's actual deliveries of crude oil (as shown in monthly and quarterly reports to the FEO) would result in an adjustment to the refiner's allocation or sales obligation in a succeeding quarter. The first crude oil allocation program was therefore self-correcting for unexpected shortfalls or excess supplies of crude oil realized in a particular quarter and also for any calculation errors in the information used to compute the buy-sell list for an allocation quarter.

In May 1974, after the embargo was lifted, the FEO substantially revised the mandatory crude oil allocation program. In the changed supply situation, the revision was designed to remove the disincentives for increased production and importation of crude oil which existed under the original program and to eliminate allocations between major oil companies.

The revised program eliminated allocations to major oil companies by limiting the receipt of allocated oil to small and independent refiners. Each small and independent refiner was designated a refiner-buyer and was eligible to purchase during each allocation quarter a fixed amount of crude oil equal to one quarter of its crude oil runs to stills in the year 1972 less the volume of crude oil runs to stills for the period February through April 1974, with certain adjustments. Provision was also made for allocation of crude oil with respect to new or expanded refinery capacity. The fifteen major refiners were designated as the only refiner-sellers and were required to offer crude oil for sale to refiner-buyers. Sales obligations were distributed proportionally according to each refiner-seller's percentage share of the total refining capacity of all refiner-sellers as of January 1, 1973. Refiner-sellers could replace any crude oil which was sold under the program without having such replacement crude oil subject to allocation. The pricing provisions were not changed significantly, although the six-percent handling fee was changed to a thirty-cent per barrel fee.

As more normal supply conditions returned to the petroleum industry, the mandatory crude oil allocation program was reevaluated and further modified. The Federal Energy Administration (FEA) amended the crude oil buy/sell program in August 1975 to ensure that sellers would be treated equally when use of the program either declined in periods of adequate supply or increased during a future supply shortage. These amendments were aslo intended to accommodate the reduced use of the program that followed upon the provision of crude oil cost equalization benefits under the entitlements program (§ 211.67), which was implemented in November 1974. However, the buy/sell program did continue to serve a significant, although reduced, supply function for small and independent refiners.

In April 1976, FEA amended the pricing of buy/sell program sales in a further attempt to eliminate price advantages to purchasers under the program. Since refiner-sellers were previously required to charge a price based upon the weighted average cost of crude oil delivered to that refiner, purchases under the program were often cheaper to purchasers than purchases of the alternate imported crude oils. Sales prices were determined by calculating the refiner/seller's weighted average cost of its crude oil deliveries of imported crude oil (other than from Canada), with no pricing distinctions based on PAD Districts and with a uniform gravity adjustment. A five-cent per barrel handling fee was substituted for the thirty-cent per barrel handling fee.

Effective October 1, 1977, FEA revised the buy/sell program significantly to limit purchases under the program to those refiner-buyers with refineries which had a demonstrated need for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil. Small refiners that were initially determined to have access to sufficient supplies of crude oil, and that were therefore ineligible to participate in the program, were permitted to reenter the program in the event that they experienced a significant reduction in domestic crude oil supplies. The pricing provisions for sales of allocated crude oil also were modified to take into account crude oil quality differentials and thus reflect more accurately the actual market value of crude oil sold under the program. These modifications permit refiner-sellers to determine their costs for imported high sulfur and low sulfur crude oil separately, thus ensuring that imported sweet and sour crude oil is sold under the program at prices approximating the fair market values for such crude oils. The pricing provision pertaining to transportation expenses recoverable by refiner-sellers was modified to assure that only actual transportation costs will be charged or

incurred in transactions involving allocated crude oil.

III. Special Rules Adopted

The standby crude oil program adopted today is in two separate special rules: The first (Special Rule No. 10 for Subpart C of Part 211) provides for changes to the buy/sell program itself and the second (Special Rule No. 1 for Subpart L of Part 212) provides for the pricing of allocated crude oil.

The mandatory crude oil allocation regulations and the related pricing provisions are intended to be put into effect only in the event of a crude oil supply shortage. They are automatically made effective when the emergency allocation provisions of the Agreement on an International Energy Program are activated (unless the Secretary of Energy determines otherwise), or at any other time when the Administrator of the ERA determines there is a crude oil supply shortage of sufficient severity to implement this program for some or all refiners. They provide for the mandatory allocation of crude oil produced in or imported into the fifty states, the Virgin Islands, Guam, the Hawaiian Free Trade Zone and Puerto Rico, under the authority of the Emergency Petroleum Allocation Act of 1973, as amended. These regulations do not provide for the manner of distribution of the quantity, if any, of Strategic Petroleum Reserve (SPR) crude oil made available but include any SPR crude oil acquired by a refiner in its available supplies for purposes of the calculations of sale requirements and purchase opportunities.

A. Mandatory Crude Oil Allocation Program

The mandatory allocation of crude oil under the rules adopted today is similar but not identical to that adopted by the FEO for the 1973-1974 oil embargo, and is based on the calculation of a national utilization rate for refiners on a monthly basis. This rate is obtained by dividing the national estimated crude oil runs to stills by the base period average monthly crude oil runs to stills of all U.S. refiners (rather than by their capacity, as under the original program). The base period used for purposes of these calculations will be the twelve consecutive calendar month period ending with the second month immediately preceding the month in which these special rules become effective (unless otherwise ordered by the Administrator). The Administrator will have authority to update this base period on a rolling or periodic basis. The allocation period is a calendar month (unless otherwise ordered by the Administrator). In the discussion that follows it will be assumed that the allocation period will be one month.

In each allocation period, buyers are entitled to purchase sufficient crude oil to permit operation of their refineries at the national utilization rate, and sellers are required to offer for sale any crude oil supplies that would permit their refineries to operate in excess of the national utilization rate.

The national estimated crude oil runs to stills for any allocation period is the total of the estimated crude oil runs to stills for all domestic refiners. The estimated crude oil runs to stills for a particular refiner includes that quantity of crude oil which the refiner estimates it will run to stills during the allocation period, including any Strategic Petroleum Reserve crude oil it may have purchased from the U.S. Government.

The ERA anticipates that all refiners participating in this program will use prudent business judgments in developing as accurate a projection as possible of crude oil runs to stills, taking into account anticipated refinery receipts and managing inventories in the best interest of the country. It should be noted, however, that the program is self-correcting, in that errors in estimates of crude oil runs to stills in an allocation period will be corrected by adjustments to the refiners' purchase rights or sales obligations in subsequent allocation periods.

The national average monthly crude oil runs to stills for any allocation period is the total of all crude oil runs to stills by all U.S. refiners in the base period divided by the number of days in the year (365 or 366) and multiplied by the number of days in the month. In other words, the average daily crude runs to stills for all U.S. refiners during the base period is multiplied by the number of days in the month to determine base period average monthly crude oil runs to stills.

The maximum quantity of crude oil a refiner is permitted to purchase or required to sell during the allocation period is determined by multiplying the refiner's average base period monthly crude oil runs to stills by the national utilization rate (national estimated crude oil runs to stills divided by national base period average monthly crude oil runs to stills). By subtracting the refiner's estimated crude oil runs to stills from the refiner's allowed crude oil runs to stills, the ERA determines the refiner's buy/sell obligation.

If a refiner's estimated crude oil runs to stills is greater than the amount the above calculation indicates it is permitted to refine, the refiner is required to offer such excess crude oil for sale. Conversely, if the refiner's estimated crude oil runs to stills is less than it is permitted to refine under the above calculations, the refiner is eligible to buy an amount of crude oil that will enable it to run its refineries at the national utilization rate.

The following examples illustrate the use of the proposed allocation formula. The terms of the formula are defined as follows:

X=quantity of crude oil a refiner is entitled to purchase (if X is a positive number) or required to sell (if X is a negative number) during the allocation period
A=refiner's estimated crude oil runs to stills during the allocation period
B=refiner's average base period monthly crude oil runs to stills
C=national estimated crude oil runs to stills for all U.S. refiners for the allocation period
D=national average base period monthly crude oil runs to stills by all U.S. refiners

A mathematical expression of the formula is:

$$\left(\frac{C}{D} \times B\right) - A = X$$

If a refiner's total estimated crude oil runs to stills for the allocation period (e.g., A=200 barrels) as compared to its average base period monthly runs to stills (e.g., B=800 barrels) multiplied by the national utilization ratio (e.g., C/D=½, as calculated by dividing the national estimated crude oil runs to stills, e.g., C=225 million barrels, by the national base period average monthly crude oil runs to stills, e.g., D=450 million barrels), results in a positive number, then that refiner is entitled to purchase crude oil from another refiner with crude oil in excess of its permitted runs to stills: (½×800)−200=+200. If a refiner's total for an allocation period (e.g., A=600 barrels) as compared to its average base period monthly crude oil runs to stills (e.g., B=800 barrels) multiplied by the national utilization ratio of ½, results in a negative number, then that refiner is required to offer for sale that part of its crude oil that is in excess of its permitted runs to stills: (½×800)−600=−200.

A buyer is permitted to process crude oil purchased pursuant to this special rule at any of its refineries, regardless of the historical crude oil runs to stills of particular refineries, and may even close a refinery operated during the base period without a reduction in its base period volume if this volume can be accommodated in its other refineries. A buyer is required to process the crude oil, have the crude oil processed, or exchange the crude oil and have the oil received in exchange processed within 60 days from the date of execution of the pur-

chase/sale agreement. Subsequent to the close of an allocation period, based upon submission by refiners of actual crude oil runs to stills, the ERA will recalculate the buy/sell list and make adjustments in a forthcoming allocation period as warranted.

In the event the standby regulation is made applicable to all refiners, as discussed more fully below, all refiners will have sales obligations or purchase rights, depending on their estimated crude oil runs relative to the national ratio, regardless of size. Thus, a small refiner with abundant supplies of crude oil could be a seller under the program, and a major refiner incurring a disproportionate amount of the shortfall could be a buyer. However, firms that have a DOE-certified crude oil refining capacity not exceeding 50,000 barrels per day and would otherwise have a sales obligation under the program are automatically exempt from such obligation if the total reduction in U.S. crude oil supplies, as determined by ERA, is 7 percent or less. The Administrator will have discretion to limit or eliminate this exemption if he determines that complete exemption of small refiners is not warranted in the circumstances of the particular supply emergency. We believe the full or partial exemption of small refiners from sales obligations when the shortfall is not severe is appropriate, inasmuch as small refiners would have very small sales obligations and limited ability to deliver allocated crude oil to buyers.

As discussed in section D of this notice, the pricing provisions in the special rule if the program is activated for all refiners provide that small buyers (with a refining capacity not exceeding 50,000 barrels per day) are permitted to purchase crude oil at the average cost of imported crude oil to the seller, whereas sales between larger refiners will be based on the sellers' actual cost of the crude oil sold. Sales at the seller's weighted average cost result in a certain penalty for the seller, because replacement costs during a crude oil supply shortage will in most cases exceed the seller's weighted average cost. We have therefore determined that obligations to sell crude oil to those small refiners entitled to purchase at the weighted average cost will be distributed on a pro-rata basis among all sellers.

The first allocation period will begin on the date specified by the Administrator of ERA in the order making these special rules effective.

Adjustments to a refiner's base period crude oil runs to stills may be made for non-recurring or unusual operating conditions or to reflect refining capacity in operation for less than the base period time period. However, any adjustment to the base period crude oil runs to stills for purposes of the program must be approved by the ERA. If a refiner has had a new refinery or a refinery addition in operation for more than one full month but less than the total base period, it must make application to ERA to establish base period crude oil runs to stills to take into account the new refining capability.

Whenever the Administrator determines that a refined petroleum product or residual fuel oil is or potentially will be in short supply in any region or area of the country, he may, in order to increase the production of that product or residual fuel oil, adjust the sales obligation or purchase opportunity of specified refiners to permit them to operate refineries specified by the Administrator at a rate greater than the national utilization rate. Such refiners would be required to supply their increased production of the product or residual fuel oil to those regions or areas experiencing shortage conditions. On the basis of the comments received in this rulemaking proceeding, we believe that this provision is more practical and effective as a means of alleviating a critical product shortage in a particular region or regions than our proposal to allocate crude oil to product importers, which was opposed by virtually all commenters. However, since this provision reflects a significant variation from the rule proposed in the February 10, 1978 notice, we are continuing this rulemaking to receive comments on this provision among others.

A refiner's runs to stills, whether estimated or actual, shall include the amount of crude oil processed in the refinery of another firm pursuant to a processing or exchange agreement. This is a change that was recommended by many refiners that commented on the proposed regulations. Refiners' crude oil runs include all crude oil runs to stills of refineries owned, operated, or controlled by the refiner that were in operation at least one full calendar month during the base period or, if they have been operating for a shorter period, that have been taken into account in an adjustment by ERA to base period runs to stills.

With the exception of the first allocation period, the special rule provides for publication of buy/sell notices for the emergency allocation program at least 10 day prior to the beginning of each allocation period. Each buy/sell notice will contain two separate lists. The first list will set forth the allcoations to buyers whose refinery capacity is 50,000 barrels per day or less and the pro-rata share of the sales obligations to such buyers of all sellers. Sales made pursuant to this list are required to be made at the seller's weighted average cost of imported crude oil. The second list will set forth the allocations to buyers whose refinery capacity exceeds 50,000 barrels per day and the sales obligations (less the obligations shown on the first list, as appropriate) of all sellers. Sales made pursuant to the second list will be based on the seller's actual cost of the crude oil.

The conditions of sale and the procedures to be invoked in the event of a failure to negotiate a transaction remain substantially similar to those specified in 10 CFR 211.65 for the allocation program currently in effect. However, under this special rule: (1) Sellers are required to deliver crude oil to any refinery specified by a buyer, provided that the buyer retains title to the products refined from the purchased crude oil and sells or exchanges such products in accordance with normal business practices; and (2) buyers that are unable to consummate transactions must request ERA assignment of a seller within 12 days of publication of the buy/sell notice.

Reports of estimated crude oil runs to stills for the next allocation period and actual data for the preceding allocation period must be filed by all refiners with the ERA no later than the tenth day of the current allocation period, unless otherwise specified by the Administrator. Transactions under the program are required to be reported by telephone within 48 hours of the completion of the arrangements for the sale and then confirmed in writing.

In addition, refiners are also required to report their "total crude oil supply" for the next allocation period, as well as their actual total crude oil supply for the preceding allocation period. Total crude oil supply includes, but is not limited to, inventory, anticipated shipments of crude oil due to arrive during the allocation period, and crude oil in non-associated storage.

Contracting procedures for, and terms and conditions of, the sale of crude oil from the SPR are not covered by the special rule. Subject to other legal requirements related to distribution of SPR crude oil, DOE may determine at a later date to modify this program so that sales of SPR oil would be encompassed.

The Administrator will have the discretion under the standby regulations to implement the program and make it applicable only to specified categories of refiners if he determines that is appropriate in the circumstances. For example, if there is an interruption of crude oil supply from a certain source that affects the supplies of only a limited number of large and small refiners, the special rule enables the Administrator to amend the present buy/sell program regulations to provide

emergency allocations to any refiner (regardless of whether it is presently eligible for an allocation under the program) that has a demonstrated significant shortage of crude oil supplies. In this case, it would not be necessary to put into effect any of the other standby regulations discussed above. Emergency allocations would be designed to maintain such a refiner's crude oil supplies at a level approximately equivalent to its supply level for the corresponding period of the previous year. If the Administrator made an allocation to a refiner that is a refiner-seller under the buy/sell program, that refiner would be relieved of an appropriate portion of its sales obligation, and the sales obligation so relieved would be distributed on a pro-rata basis among all remaining refiner-sellers. All crude oil sold to other than small refiners pursuant to this amended buy/sell program would be priced in accordance with the provisions of the special pricing rule adopted today in standby status (that is, at the seller's replacement cost plus certain adjustments). With respect to small refiners whose total capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day, the Administrator would have the option of applying either the pricing provisions of the standby regulations or the current provisions of § 212.94 (which provide for sales at the seller's weighted average acquisition cost of imported crude oil).

Alternatively, the Administrator could implement the standby allocation regulations only for major and large independent refiners and continue to use the current buy/sell program to fulfill the supply needs of those small refiners having supply problems. This alternative would fulfill the principal supply requirements of all refiners without the necessity of activating the entire program, with all of its attendant recordkeeping and reporting requirements. To the extent that both the present program and the one adopted today are in effect at the same time for different classes of refiners, major refiners estimated crude oil runs to stills for purposes of the new program would be adjusted to reflect sales obligations to small refiners under the present program. If the Administrator implements the standby regulations in this manner, he would again have the option of applying the price rule of the standby regulations or retaining use of the current price rule in § 212.94 for sales to small refiners between 50,000 and 175,000 barrels per day capacity.

We are continuing this rulemaking to receive comments on the provisions discussed above since they represent changes from the original proposal.

B. REFINERY YIELD CONTROL PROGRAM

The refinery yield control program set forth in revised § 211.71 of the special rule remains substantially as currently in effect. The ERA would have the authority to adjust the percentage yield of a particular product or residual fuel oil that is in short supply. We have modified the language in the proposed § 211.71 of the special standby rule to incorporate the language in the present § 211.71 to make clear that ERA may adjust the quantities of crude oil allocated among refiners in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply. Specifically, as currently provided in 10 CFR 211.71, refiners which increase production in excess of their adjusted percentage yield, or less than the adjusted percentage yield, may be allocated greater or lesser quantities of crude oil during the next allocation period, respectively.

C. SUPPLIER/PURCHASER RULE AND ENTITLEMENTS PROGRAM

The special rule does not provide for any changes in either the crude oil supplier/purchaser rule (10 CFR 211.63) or the entitlements program (10 CFR 211.67).

D. ALLOCATED CRUDE OIL PRICING PROGRAM

The pricing provisions adopted today for crude oil sold pursuant to Special Rule No. 10 are set forth in Special Rule No. 1, Subpart L, Part 212. The provisions in the special rule are similar but not identical to those in the current regulations.

As noted above, if the standby allocation regulations are implemented for all refiners and if the purchaser has a refining capacity of more than 50,000 barrels per day, the maximum price which may be charged for crude oil sold under the buy/sell program is based on the purchase cost to the seller of the crude oil delivered plus a 25¢ per barrel handling fee, and any additional transportation expenses. This rule will also apply to all refiners whose capacity is 175,000 barrels per day or more if the Administrator determines to implement only a portion of the standby allocation regulations (retaining the present program for small refiners), and the Administrator will have the discretion to apply this rule in sales to refiners whose capacity exceeds 50,000 barrels per day but is less than 175,000 barrels per day. If imported crude oil is purchased by the seller from a foreign affiliate, the purchase cost shall be determined in accordance with the transfer price rules established in 10 CFR 212.84. If the seller chooses to deliver to the buyer domestic crude oil for which the seller has exchanged foreign crude oil, the seller may use as its purchase cost the actual landed cost of the imported crude oil given up in the exchange, plus or minus any exchange differential.

The purchase cost the seller must use to determine the maximum selling price if the buyer has a refining capacity not exceeding 50,000 barrels per day is the seller's average landed cost of all of its imported crude oil in the allocation period, adjusted to reflect sulfur content and gravity differentials, plus allowable transportation expenses and a 25¢ per barrel handling fee. The sulfur and gravity differential adjustments (3 cents per barrel for each degree API of gravity and each one-tenth percent of sulfur content) are the same as those adopted in April 1976 for the present program. There was nothing in the comments received to indicate that these amounts do not accurately reflect current quality differentials for imported crude oil.

As noted, the sales obligations with respect to buyers whose capacity is 50,000 barrels per day or less will be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of sales to small buyers will be equal to its percentage share of the total sales obligations. However, sales to small buyers in excess of a seller's pro-rata share are allowed and will be credited against the seller's total sales obligation. In the event a seller has no purchases of imported crude oil, the purchase cost shall be the actual cost to the seller of the domestic crude oil sold with the handling fee and transportation expense adjustment.

The DOE has determined that the pricing provisions in the special rule adopted today address most of the comments received in the rulemaking process and further the objectives of the standby crude oil buy/sell program. By using actual acquisition cost for sales between the larger refiners, these companies will have an incentive to search for new supplies of imported crude oil. Small buyers (with a refining capacity not exceeding 50,000 barrels per day) are permitted to purchase imported crude oil at the average cost of imported crude oil to the seller. This will assist in ensuring that small buyers remain competitive in the event of a supply interruption.

IV. Additional Comments Requested

We recognize that these special rules adopted today could have a significant impact on certain refiners in the event they are activated. Although the special rules are standby rules subject to being activated immediately, they may not be activated until a future date. Thus, there may be an opportunity to make additional improvements in these regulations prior to the time

they are needed, and it is therefore our intention to review these regulations continuously for this purpose prior to their activation. In this regard, the DOE may conduct additional tests of the emergency supply interruption systems. These tests could demonstrate the need for amendments to these special rules and, if so, the changes will be made in the appropriate manner. In addition, we are soliciting further written comments, through March 16, 1979, on all aspects of these special rules, and particularly those provisions that represent significant modifications of the proposal, and are continuing this rulemaking proceeding for the purpose of making any further amendments that may be appropriate in light of the comments received. It is also our intention to request comments on these regulations at other appropriate intervals in the future, and we specifically request suggestions from the public as to whether we should establish a routine procedure for receiving public comments on these regulations and, if so, how often comments should be solicited.

With regard to the comments due on March 16, 1979, we are especially interested in receiving comments on the standby pricing rule, with particular regard to whether the pricing treatment for refiners with a total capacity not exceeding 50,000 barrels per day is appropriate, and on whether the possible exemption of this class of refiners from sales obligations is appropriate.

In addition, we are requesting comments on § 211.65(d)(2) of the special rule, which permits the Administrator to adjust the sales obligation or purchase opportunity of one or more refiners to permit them to operate their refineries at a rate greater than the national utilization rate in order to increase the production of a refined petroleum product or residual fuel oil determined to be in short supply. In particular, comments are sought on whether this provision would be necessary and appropriate during a supply interruption and, if so, what criteria should be used by the Administrator in selecting refiners that would be permitted to operate one or more of their refineries at a rate greater than the national utilization rate.

Comments should be submitted to the address indicated in the "Address" section of this preamble and should be identified on the outside envelope with the designation "Crude Oil Allocation and Pricing Standby Regulations", Docket No. ERA-R-78-4. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

In accord with section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and notified DOE by letter dated October 2, 1978 that it did not determine that the proposed regulations would significantly affect any function within its jurisdiction pursuant to section 402(a)(1), (b), and (c)(1) of the DOE Act.

We are adopting these amendments immediately in standby status. In the event any of the amendments are made effective within thirty days of their publication, such action will be taken in accordance with the requirements set forth at 5 USC section 553(d).

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended, as set forth below, on the day of issuance.

Issued in Washington, D.C., on January 9, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Part 211 is amended by adding a new Special Rule No. 1 to the Appendix to Subpart C to read as follows:

SPECIAL RULE NO. 10

STANDBY MANDATORY CRUDE OIL ALLOCATION AND REFINERY YIELD CONTROL PROGRAMS

1. *Scope.* This Special Rule No. 10, to Subpart C, Part 211, sets forth the DOE Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs. This special rule does not provide for the allocation or determination of the amounts of Strategic Petroleum Reserve crude oil, if any, to be exchanged or sold by the United States Government.

2. *Applicability.* (a) This special rule is effective beginning on the day:

(i) When the emergency allocation provisions of the Agreement on an International Energy Program (IEP) take effect, unless the Secretary of Energy determines that this special rule shall not be effective on that date; or

(ii) When ordered by the Administrator.

(b) Except as otherwise provided in paragraphs 3(a) or 8 of this special rule, during the period this special rule is in effect, the definitions of crude oil runs to stills, refiner, refiner-buyer, refiner-seller, and refining-capacity in § 211.62, all of § 211.65, and all of § 211.71, Title 10, Chapter II, Part 211, Subpart C (Crude Oil and Refinery Yield Control) are superseded by the provisions of this special rule.

(c) This special rule terminates:

(i) On the sixtieth (60th) calendar day after the emergency allocation provisions of the IEP terminate, unless the Secretary of Energy determines this special rule should terminate at an earlier date; or

(ii) When ordered by the Administrator, if this special rule is made effective under paragraph 2(a)(ii) hereof.

(d) Upon the day following the date of termination of the effectiveness of this special rule, the above referenced definitions in § 211.62, and § 211.65, § 211.66, and § 211.71, as set forth in Title 10, Chapter II, Part 211, Subpart C (Crude Oil and Refinery Yield Control) in effect on the day prior to the day this special rule is made effective shall become effective.

3. *Exemption.* (a) Refiners that have a DOE certified crude oil refining capacity not exceeding 175,000 barrels per day are exempt from the provisions of this special rule, unless the Administrator determines that this exemption is not warranted by the severity of the crude oil supply shortage that is the basis for the effectiveness of this special rule and issues an order making the exemption inapplicable to such refiners. During the period this exemption is applicable, the provisions of this special rule shall not supersede the provisions of §§ 211.62, 211.65 and 211.71, Title 10, Chapter II, Part 211, Subpart C (Crude Oil and Refinery Yield Control).

(b) Sellers that have a DOE certified crude oil refining capacity not exceeding 50,000 barrels per day are exempt from the sales obligations of this special rule, unless (i) the Administrator determines that this exemption is not warranted by the severity of the crude oil supply shortage that is the basis for the effectiveness of this special rule and issues an order making the exemption inapplicable to such sellers; or (ii) total U.S. crude oil consumption decreases by seven percent or more as a direct or indirect result of a crude oil supply shortage.

4. For purposes of this special rule, certain definitions set forth in § 211.62

are amended and several new definitions are added to § 211.62 as follows:

"Administrator" means the Administrator of the Economic Regulatory Administration, Department of Energy.

"Allocation period" means a calendar month, except as otherwise ordered by the Administrator.

"Base period" means the twelve (12) consecutive calendar months ending with the second month prior to the month in which this special rule becomes effective unless otherwise ordered by the Administrator.

"Base period average monthly crude oil runs to stills" means a refiner's total crude oil runs to stills for all its refineries during the base period as reported on the Bureau of Mines Form P-320, including crude oil processed for the refiner's account by other refiners, divided by the number of days in the base period and multiplied by the number of days in the allocation period.

"Buyer" means any refiner whose estimated crude oil runs to stills during the allocation period is less than the national utilization rate multiplied by that refiner's base period average monthly crude oil runs to stills.

"Crude oil runs to stills" means, in the case of a refiner other than a petrochemical producer, the total number of barrels of crude oil input to distillation units or directly to downstream facilities processed by a refiner for its own account, and the number of barrels processed for its account by other refiners, measured in accordance with Bureau of Mines Form P-320. In the case of a petrochemical producer, "crude oil runs to stills" means the total number of barrels of crude oil input to processing units for conversion into petrochemicals.

"DOE" means the Department of Energy, established by Pub. L. 95-91 (August 14, 1977).

"ERA" means the Economic Regulatory Administration, Department of Energy.

"Estimated crude oil runs to stills" means the volume of crude oil a refiner estimates it will run to stills for its own account during an allocation period for all of its refineries, the volume of crude oil to be processed for nonrefiners, the volume of crude oil to be processed for the refiner's account by other refiners, and the volume of crude oil purchased from, or received through exchange with, the Strategic Petroleum Reserve established pursuant to the Energy Policy and Conservation Act (Pub. L. 93-165). A refiner's estimated runs to stills shall be based on the volume of its total crude oil supply (as defined in paragraph 4 of this special rule) that could be processed in its refineries or for its account by other refiners in the particular allocation period, excluding crude oil purchased or to be purchased under this special rule. If the exemption in paragraph 3(a) of this special rule is applicable, "estimated crude oil runs to stills" shall not include the quantity of crude oil a refiner-seller estimates it will be required to sell to refiner-buyers pursuant to § 211.65 during the allocation period.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The ERA may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

"IEA" means the International Energy Agency established to implement the IEP.

"IEP" means the International Energy Program established pursuant to the Agreement on an International Energy Program signed at Paris, France, on November 18, 1974, including (a) the Annex entitled "Emergency Reserves", (b) any amendment to such Agreement that includes another nation as a Party to such Agreement, and (c) any technical or clerical amendment to such Agreement.

"National base period average monthly crude oil runs to stills" means the total base period average monthly crude oil runs to stills of all U.S. refiners.

"National estimated crude oil runs to stills" means, for any allocation period, the total of the estimated crude oil runs to stills for all U.S. refiners, minus the quantity of crude oil directed to all refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this special rule.

"National utilization rate" means national estimated crude oil runs to stills for an allocation period divided by national base period average monthly crude oil runs to stills.

"New refining capacity" means, for each refiner, the capacity of its refineries, as certified by the DOE, operated continuously in the normal course of such refiner's business for a period of at least one full calendar month, which must include the month preceding the month of the effective date of this special rule, but for less than the full 12 months of the base period.

"Petrochemical plants" means those industrial plants, regardless of capacity, that process petrochemical feedstocks and obtain at least thirty (30) percent conversion, by weight, to petrochemicals or other products that are converted to petrochemicals, as long as the weight of hydrocarbon contained in the final petrochemical is equal to at least thirty (30) percent of the initial petrochemical feedstock fed to the plant under consideration.

"Refiner" means a firm which owns, operates or controls the operations of one or more refineries within the United States.

"Refinery" means an industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, residual fuel oil or petrochemicals, and shall include a petrochemical plant operated continuously in the normal course of business during the base period.

"Seller" means any refiner whose estimated crude oil runs to stills during the allocation period is greater than the national utilization rate multiplied by that refiner's base period average monthly crude oil runs to stills.

"Total crude oil supply" means the total quantity of crude oil to which a refiner has access during an allocation period, including, but not limited to, crude oil owned, controlled or purchased by the refiner in associated storage, in nonassociated storage, in transit for delivery to a refinery during the allocation period, or to be processed for the account of non-refiners, excluding pipeline fill and tank bottoms. If the exemption in paragraph 3(a) of this special rule is applicable, "total crude oil supply" shall not include the quantity of crude oil a refiner-seller estimates it will be required to sell to refiner-buyers pursuant to §211.65 during the allocation period.

"United States" means the several states, the District of Columbia, Puerto Rico, the territories and possessions of the United States other than the Panama Canal Zone, and the Hawaiian Free Trade Zone.

5. *Method of Allocation.* For purposes of this special rule, § 211.65 shall read as follows:

§ 211.65 *Mandatory Crude Oil Allocation program.*

(a) *General rule.* (1) In each allocation period a buyer shall be entitled to purchase and a seller shall be required to offer for sale an amount of crude oil equal to the difference between

(i) The national utilization rate multiplied by the refiner's base period average monthly crude oil runs to stills, and

(ii) The refiner's estimated crude oil runs to stills during the allocation period.

(2) *Definitions.*

X=quantity of crude oil a buyer is entitled to purchase (if X is a positive number) or required to offer for sale (if X is a negative number) during the allocation period

A=refiner's Estimated Crude Oil Runs to Stills during the allocation period
B=refiner's Base Period Average Monthly Crude Oil Runs to Stills
C=National Estimated Crude Oil Runs to Stills for all U.S. refiners for the allocation period
D=National Base Period Average Monthly Crude Oil Runs to Stills by all U.S. refiners

(3) *Formula.*

$$\left(\frac{C}{D} \times B\right) - A = X$$

(4) *Calculation Procedure.* For each allocation period, the amount of crude oil a refiner is eligible to buy or required to offer for sale shall be calculated as follows:

(i) Each U.S. refiner shall submit to the ERA its estimate of crude oil runs to stills for the allocation period.

(ii) For each allocation period, the ERA shall compute the national estimated crude oil runs to stills based on the total estimated crude oil runs to stills for all U.S. refiners for that allocation period.

(iii) The ERA shall compute the average daily crude oil runs to stills during the base period for each domestic refiner by dividing the total volume of that refiner's crude oil runs to stills in the base period by the number of days in the base period (365 or 366).

(iv) The ERA shall multiply this daily average volume of crude oil runs to stills for each refiner by the number of days in the allocation period, to determine the refiner's base period average monthly crude oil runs to stills for the allocation period.

(v) The ERA shall compute a national base period average monthly crude oil runs to stills by aggregating the base period average monthly crude oil runs to stills of all U.S. refiners for the allocation period.

(vi) The ERA shall divide the national estimated crude oil runs to stills (clause (ii)) for the allocation period by the national base period average monthly crude oil runs to stills (clause (v)) to determine the national utilization rate for the allocation period.

(vii) The ERA shall multiply the national utilization rate by the refiner's base period average monthly crude oil runs to stills for the allocation period (clause (iv)) to determine the refiner's allowable crude oil runs to stills during the allocation period.

(viii) The ERA shall subtract the refiner's estimated crude oil runs to stills (clause (i)) from the refiner's allowable crude oil runs to stills during the allocation period (clause (vii)) to determine the refiner's purchase or sale obligation, subject to any adjustments made pursuant to paragraph (d)(2) of this section or § 211.71(d) of this special rule.

(ix) If the result of the calculation in clause (viii) is positive, the refiner is entitled to purchase that quantity of crude oil.

(x) If the result of the calculation in clause (viii) is negative, the refiner is required to offer that quantity of crude oil for sale, unless the exemption provided for in section 3 of this special rule is applicable to that refiner.

(5) *First allocation period.* The first allocation period shall commence on the date ordered by the Administrator.

(b) *Buyers.* Each buyer shall:

(1) Be entitled to purchase, either directly or through exchange, from a seller, a quantity of crude oil equal to the amount computed pursuant to paragraph (a) of this section; and,

(2) Be required to refine or have processed any crude oil purchased or exchanged for crude oil purchased pursuant to this special rule within 60 days following the date of execution of the sale/purchase agreement.

(c) *Sellers.* Except as provided in paragraph 3 of this special rule, each seller shall be required to offer for sale, directly or through exchange, to buyers a quantity of crude oil equal to the amount computed pursuant to paragraph (a) of this section: *Provided,* That the sales obligations with respect to buyers that have a DOE certified crude oil refining capacity of 50,000 barrels per day or less shall be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of such sales obligations shall be equal to its percentage share of the total sales obligations, as specified in the buy/sell notice issued pursuant to § 211.65 (g) of this special rule.

(d) *Adjustments to purchase and sale amounts.* (1) The ERA shall recalculate the buy/sell list for each allocation period based on actual crude oil runs to stills and crude oil purchased under this special rule during that allocation period and then make appropriate adjustments in a subsequent allocation period to reflect what each refiner's sale or purchase amount should have been, except that positive adjustments to a buyer's allocations in subsequent allocation periods will not be made if that buyer failed to purchase its total allocations during the allocation period in which the sales were made. Such recalculation shall be for the primary purpose of correcting errors in estimates, and shall also:

(i) Increase a seller's sales obligation in any allocation period to reflect crude oil offered for sale by that seller but not purchased by a buyer in a prior allocation period;

(ii) Decrease a seller's sales obligation in any allocation period to deduct crude oil sales in excess of the amount required to be offered for sale in a prior allocation period pursuant to paragraphs (f) and (i)(2) of this section; and,

(iii) Either decrease a refiner's sales obligation or increase its purchase opportunity in any allocation period or periods, as the case may be, to reflect any adjustments made under paragraph (d)(2) of this section or § 211.71(d) of this special rule and to account for sales made by that refiner under the IEP in the current or one or more previous allocation periods, where the refiner reasonably could not have forseen such a sale and adjusted its estimated crude oil runs to stills for the allocation period in question to reflect the sale, and to reflect any purchases by a refiner made under the IEP.

(2) Whenever the Administrator determines that a refined petroleum product or residual fuel oil is or potentially will be in short supply in any region or area of the United States, the Administrator may adjust the sales obligation or purchase opportunity of one or more refiners which produce that refined petroleum product or residual fuel oil and supply or are capable of supplying that refined petroleum product or residual fuel oil in or into those regions or areas experiencing shortage conditions, to permit such refiners to operate one or more of their refineries, as specified by the Administrator, at a rate greater than the national utilization rate: *Provided,* That such refiners agree to supply that refined petroleum product or residual fuel oil at a level specified by the Administrator in or into those areas or regions experiencing shortage conditions.

(e) *New refining capacity.* The ERA may adjust a refiner's base period average monthly crude oil runs to stills to reflect new refining capacity, pursuant to application by that refiner under subpart G of Part 205 of this Chapter.

(f) *Adjustment to base-period crude oil runs to stills and directed transactions.* (1) Prior to the first day of the second allocation period, a refiner may request the Administrator to adjust its base period crude oil runs to stills for unusual and non-recurring operating conditions during the base period at one or more of its refineries. If the Administrator does not approve, in whole or in part, or disapprove the request within fifteen (15) business days of receipt of the request, it shall be deemed denied.

(2) Notwithstanding the provisions of this special rule, the Administrator may:

(i) Order a refiner to offer to sell crude oil to reduce its total crude oil supply as defined in paragraph 4 of this special rule over and above any reduction in its total crude oil supply required under paragraphs (a) through (c) of § 211.65 of this special rule; and (ii) order a refiner purchasing crude oil under this special rule to place and retain that crude oil in its inventory.

(g) *Buy/sell notice and negotiation of transactions.* (1) Except for the first allocation period, a buy/sell notice shall be published at least 10 days prior to the beginning of the allocation period. Except when the exemption is paragraph 3(a) of this special rule is applicable, each buy/sell notice shall contain two lists. One list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity is 50,000 barrels per day or less is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers. The other list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity exceeds 50,000 barrels per day is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers (less the obligations shown on the first list).

(2) Upon publication of the notice, buyers and sellers shall negotiate purchases and sales of crude oil allocated pursuant to the notice. All sales, except directed sales pursuant to paragraph (i) of this section, must be contracted for within ten (10) days after the publication of the buy/sell notice, and all deliveries must be completed within thirty (30) days following the date of execution of the sale/purchase agreement.

(3) The ERA may issue a supplemental notice for an allocation period to reflect adjustments under paragraph (d)(1)(iii) of this section for voluntary or mandatory sales under the IEP for that allocation period, where the operations of the refiner making the sale could be adversely affected by reason of the sale and where the refiner could not reasonably forsee the sale so as to have adjusted its estimated crude oil runs to stills accordingly.

(h) *Terms and conditions of sales.* (1) The terms and conditions of each sale, processing agreement, or exchange of crude oil,

other than sales prices, shall be consistent with normal business practices.

(2) Sellers shall deliver crude oil purchased pursuant to this special rule to any refinery designated by the buyer, whether or not it is operated by the buyer: *Provided*, That the buyer (i) has title to the product or products refined from the purchased crude oil when the refining process is completed, or (ii) sells or exchanges such product in accordance with normal business practices.

(3) Crude oil offered for sale must be suitable for processing in the buyer's refinery or the refinery designated by the buyer: *Provided*, That the refinery so designated does not require a significantly higher quality of crude oil than the buyer's own refinery or refineries. Crude oil is deemed to be suitable for processing in a refinery if it has historically been processed in the refinery or if it has the same or similar characteristics as crude oil that has historically been processed in the refinery. A seller may not be required to supply a specific type of crude oil to a buyer's refinery if the crude oil supplied would account for a greater percentage of the refinery's total crude oil runs to stills in the allocation period concerned than was the case with similar or higher quality crude oils during the previous twenty-four month period.

(4) Crude oil offered to a buyer must be practical for delivery to and physically capable of being delivered to the buyer's refinery or a refinery designated by the buyer. The seller and the buyer shall make mutually satisfactory arrangements for the delivery of allocated crude oil to the buyer's refinery or to the designated refinery.

(5) All crude oil sold pursuant to this section shall be priced in accordance with the provisions in Part 212, Subpart L, Special Rule No. 1.

(6) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this special rule.

(i) *Failure to negotiate transactions.* (1) Each buyer shall make its best effort to consummate purchases of crude oil under this special rule from sellers prior to requesting assistance from the ERA. A buyer that is able to demonstrate its inability to consummate a sale despite making such effort may request, in accordance with the procedures established under 10 CFR Part 205, Subpart G, that the ERA direct one or more sellers to sell a suitable type of crude oil to such buyer. Such a request must be received by the ERA no later than 12 days after the publication of the buy/sell notice for the allocation period for which the assignment of a seller is requested. Such a request must also document the buyer's inability to purchase crude oil from sellers by supplying the following to the ERA:

(i) Name of the buyer and the person authorized to act for the buyer in transactions under this section.

(ii) Names and locations of each refinery for which crude oil has been sought; whether the buyer owns the refinery; the amount of crude sought for each refinery; and the technical specifications and proportions of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Statement describing terms and conditions or processing agreements that the buyer plans to enter into for purposes of having the crude oil refined and the extent to which such processing agreements are consistent with the buyer's normal business practices.

(v) Names and locations of all sellers from which crude oil has been sought under the buy/sell notice and the volume and specifications of the crude oil sought from each seller.

(vi) The response of each seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contracted at each such seller.

(vii) Such other pertinent information as the ERA may request.

(2) Upon receipt of a request for a directed sale under paragraph (1), the ERA may direct one or more sellers that have not sold their required sales obligations for the allocation period to sell crude oil to the buyer. In directing sellers to make such sales, the ERA shall consider which seller or sellers can best be expected to consummate particular directed sales. If the buyer declines to purchase crude oil from the seller specified by the ERA, the rights of that buyer to purchase that volume of crude oil are forfeited during that allocation period: *Provided*, That the seller or sellers have fully complied with the provisions of this section. If the ERA determines that a valid directed sale request cannot reasonably be expected to be consummated by a seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more sellers selling more than their published sales obligations for that allocation period.

(j) *Coordination with the IEP.* (1) An IEP-designated domestic reporting company that submits a written voluntary offer pursuant to the IEP shall simultaneously transmit a copy of the offer to the ERA if the offer either results in crude oil or petroleum products intended to be imported to the U.S. being rerouted to another country, or results in crude oil being exported from the U.S., or crude oil or petroleum products being rerouted from another country to the U.S.

(2) The DOE will notify the IEA within forty-eight (48) hours of being notified of a voluntary offer as to whether acceptance of such offer by the IEA could impair the operation of the U.S. domestic allocation system.

6. *Procedures and reporting requirements.* For purposes of this special rule, the following new reporting requirements are added to § 211.66, which shall read as follows:

(a) *Filing.* All matters pertaining to the allocation of crude oil and the refinery yield control program shall be addressed to the ERA in accordance with 10 CFR 205.12, unless otherwise provided.

(b) *Monthly Reports.* Not later than the tenth (10th) day of each allocation period, unless ordered otherwise by the Administrator, each firm subject to this special rule shall file with the ERA a report for each of its refineries which includes (1) a statement of the actual crude oil runs to stills for each refinery for the preceding allocation period and an estimate of its crude oil runs to stills for the next allocation period; (2) a statement of its actual total crude oil supply as defined in paragraph 4 of this special rule for the preceding allocation period and an estimate of its total crude oil supply for the next allocation period; and (3) a statement of the volume of crude oil (other than crude oil sold pursuant to the provisions of this special rule) sold during the preceding allocation period and an estimate of such sales for the next allocation period. For the first allocation period, such information must be filed on the date specified by the Administrator.

(c) *Transaction Report.* Within forty-eight hours of the completion of arrangements therefor, each transaction made to comply with this special rule shall be reported by telephone and confirmed in writing or by telex to the ERA by both the buyer and seller. This report shall identify the seller, the buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

7. *Mandatory refinery yield control program.* For purposes of this special rule, § 211.71 shall read as follows:

§ 211.71 *Mandatory Refinery Yield Control Program.*

(a) *Purpose.* The refinery yield control program is designed to require each refiner to utilize available supplies of crude oil in a manner best suited to ensure adequate production levels of refined petroleum products and residual fuel oil which are or may be in short supply.

(b) *Scope.* This paragraph applies as specified to the production of refined petroleum products and residual fuel oil from crude oil by each refiner in the United States.

(c) *Product Yield Controls.*—(1) *Definitions.* As used in this paragraph "Base percentage yield" means the ratio, expressed as a percentage, of the total number of barrels of a particular refined petroleum product or residual fuel oil produced by a refiner during a specified base period to the refiner's total crude runs to stills in that base period.

"Base period" means an appropriate historical period determined by the Administrator during which the petroleum product or residual fuel oil was produced by the refiner.

(2) *Adjustment of Base Percentage Yield.* Whenever a refined petroleum product or residual fuel oil is or will be in short supply, the ERA may direct refiners to adjust their base percentage yield of that product or residual fuel oil in order to increase the relative output of that product or residual fuel oil in short supply. Such directives may require either percentage changes in yields or changes in yields that would permit the refiner(s) to supply a product or residual fuel oil at specified levels. The ERA may direct a refiner or refiners to adjust yields of a particular refined petroleum product or residual fuel oil for a specific refinery or on a geographic or national basis.

(3) *Joint Compliance.* Upon approval by the ERA, two or more refiners may adjust their base percentage yield of a particular refined petroleum product or residual fuel oil on a pooled basis such that the combined production of that product or residual fuel oil by the two or more refiners would equal the combined production of those refiners if each refiner had separately equalled or exceeded its base percentage yield of that product or residual fuel oil.

(d) *Allocation of crude oil.* The ERA may adjust the quantities of crude oil allocated among refiners pursuant to this special rule

in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply for which an adjusted base percentage yield has been directed. Such adjustments shall be designed to meet the objectives of this special rule, so that refiners which increase production in excess of their adjusted percentage yield of that product or residual fuel oil, or which decrease production to less than the adjusted percentage yield of that product or residual fuel oil, may be allocated greater or lesser quantities of crude oil during the next allocation period, respectively.

8. *Special allocation procedures.* When the provisions of this special rule are in effect, the Administrator may order the following amendments to paragraphs (c) and (i) of § 211.65 and, in that event, paragraphs 3, 4 (except the definitions of "Administrator," "DOE" and "ERA"), 5, 6 and 7 of this special rule shall not be in effect:

(a) Paragraph (c) may be amended by revising the heading and subparagraph (2) to read as follows:

(c) *Review of eligibility for allocations, adjustments to purchase opportunties, and emergency allocations.* * * *

(2)(i) Notwithstanding any provision of § 211.62 or any other provision of this section, upon application at any time by any refiner, the ERA may grant that refiner an emergency allocation for one or more allocation periods, or for part of an allocation period, the effect of which shall be to maintain that refiner's crude oil supplies at a level equivalent to that refiner's supply level for the corresponding period of the previous year: *Provided,* That, such refiner shall be required to demonstrate that it is incurring, or will incur in the allocation period for which the allocation is sought, a significant reduction, due to circumstances over which such refiner reasonably had no control, in its supply of crude oil due directly or indirectly to shortages of crude oil in the world markets. Each application shall contain the information (including documentation where appropriate) necessary for the ERA to determine that the applicant's reduction in crude oil supplies is due to circumstances over which the applicant reasonably had no control. In granting a request of a refiner for an emergency allocation, the ERA may direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner pursuant to paragraph (j) of this section.

(ii) In the event the ERA grants an emergency allocation to any refiner that is a refiner-seller under this section, that refiner-seller shall be relieved of the appropriate portion of its sales obligation for a period of time as specified by the Administrator and the sales obligation of such refiner-seller so relieved shall be distributed on a pro-rata basis among all remaining refiner-sellers.

(iii) The ERA may (A) grant an emergency allocation to a refiner under this paragraph, (B) adjust any allocation or sales obligation shown on the buy/sell notice specified in paragraph (g) of this section or (C) issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period pursuant to subparagraph (3) of paragraph (j) of this section, without issuing a supplemental buy/sell notice listing such emergency allocations, adjustments to allocations or increased sales obligations: *Provided,* That, no such directed sale shall increase any refiner-seller's sales obligation by more than twenty-five percent (25%) and any such directed sale amounts shall serve to reduce the refiner-seller's obligation in the next allocation period.

(b) Paragraph (i) may be amended by revising subparagraph (4) to read as follows:

(4) All crude oil sold pursuant to this section to refiners other than small refiners shall be priced in accordance with the provisions in Part 212, Subpart L, Special Rule No. 1. All crude oil sold pursuant to this section to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less shall be priced in accordance with the provisions in § 212.94 of this chapter. With respect to sales of crude oil pursuant to this section to refiners whose DOE certified crude oil refining capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day, the Administrator may determine that either the provisions in § 212.94 of this chapter or the provisions in Part 212, Subpart L, Special Rule No. 1 shall apply.

2. Part 212 is amended by deleting Appendix A, and the Special Rule therein, and by adding Special Rule No. 1 as an Appendix to Subpart L to read as follows:

APPENDIX.—SPECIAL RULE NO. 1

MANDATORY ALLOCATED CRUDE OIL PRICING RULES

1. *Scope.* This Special Rule No. 1, to Subpart L, Part 212 sets forth the rules for pricing of crude oil subject to the DOE's Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs.

2. *Applicability.* (a) This special rule is effective beginning on the day when Special Rule No. 10 to Part 211 Subpart C becomes effective pursuant to paragraph 2(a) thereof.

(b) During the time period this special rule is in effect, it supersedes § 212.94, Title 10, Chapter II, Subpart F (Allocated Crude Pricing): *Provided,* That, if the exemption in paragraph 3(a) of Special Rule No. 10 to Part 211 Subpart C is applicable, the provisions in § 212.94 shall apply to sales of crude oil pursuant to § 211.65 of this chapter to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less. With respect to sales of crude oil pursuant to § 211.65 of this chapter to refiners whose DOE certified refining capacity is greater than 50, 000 barrels per day but less than 175,000 barrels per day, the Administrator may determine that either the provisions in § 212.94 or the provisions in this special rule shall apply.

(c) This special rule terminates when Special Rule No. 10 Part 211, Subpart C terminates. Upon the day following the date of termination of this special rule, § 212.94, as set forth in Title 10, Chapter II, Part 212, Subpart F (Allocated Crude Pricing) in effect on the day prior to the day this special rule is made effective, shall become effective.

3. For purposes of this special rule, § 212.94 reads as follows:

(a) *Definitions.* For the purpose of this special rule:

"Administrator" means the Administrator of the Economic Regulatory Administration, Department of Energy.

"Allocation period" means a calendar month, except as otherwise ordered by the Administrator.

"Domestic crude oil" means crude oil produced in the United States or from the "outer continental shelf" as defined in 43 U.S.C. 1331, but excluding crude oil stored in, or owned and controlled by the United States Government, in connection with the Strategic Petroleum Reserve.

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Imported crude oil" means crude oil brought into the United States from a foreign country for consumption within the United States, but excluding crude oil stored in, or owned and controlled by the United States Government, in connection with the Strategic Petroleum Reserve.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Transportation expenses" means pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver the crude oil to the buyer's refinery or to the refinery designated by the buyer for processing the crude oil.

"United States" means the several states, the District of Columbia, Puerto Rico, the territories and possessions of the United States other than the Panama Canal Zone, and the Hawaiian Free Trade Zone.

(b) *Rule.* (1) For each allocation period, the price at which low sulfur and high sulfur crude oil shall be sold when required pursuant to Special Rule No. 10, Part 211, Subpart C shall not exceed the purchase cost to the seller as specified in subparagraph (2) of this paragraph (b), plus a handling fee of 25 cents per barrel and any transportation (including exchange differential), gravity, and sulfur content adjustments as specified in subparagraphs (3) through (5), respectively of this paragraph (b).

(2) The purchase cost to sellers of crude oil offered for sale pursuant to Special Rule No. 10, Part 211, Subpart C shall be:

(i) When the buyer has a DOE certified refining capacity of more than 50,000 barrels per day, the actual cost in an arms-length transaction or the landed cost as defined in § 212.82 of acquiring the imported crude oil offered for sale, or the actual cost of domestic crude oil sold.

(ii) When the buyer has a DOE certified refining capacity of 50,000 barrels per day or less, the weighted average landed cost (as defined in § 212.82) of all the seller's imported crude oil of the same sulfur content category (other than crude oil sold under paragraph (b)(2)(i) above) for the allocation period in which the sale is made, or where the seller has no purchases of imported crude oil in the month in which the sale is made, the actual cost of acquiring the domestic crude oil offered for sale.

(3) A price adjustment shall be made for transportation expenses for crude oil offered for sale pursuant to Special Rule No. 10, Part 211, Subpart C, as follows:

(i) Where domestic crude oil (other than Alaskan crude oil sold to a buyer located in other than Alaska) is sold, the actual cost of transporting the domestic crude oil from:

(*1*) The wellhead, in the event the seller is also the producer of the crude oil so sold, or

(*2*) The point of purchase or exchange in the event the seller acquires the crude oil so

sold pursuant to a purchase or exchange, to the buyer's refinery;

(ii) Where Alaskan crude oil is sold to a buyer located other than in Alaska, the acutal cost of transporting the Alaskan crude oil from the point of landing to the buyer's refinery;

(iii) Where imported crude oil is sold, the actual cost of transporting the imported crude oil from the United States port of entry to the buyer's refinery.

(4) A price adjustment shall be made for gravity differential of crude oil offered for sale under Special Rule No. 10, Part 211, Subpart C, that is priced under paragraph (b)(2)(ii) of this Special Rule, by adding to or subtracting from the price three cents per barrel (or as otherwise determined by the Administrator in light of prevailing market conditions) for each degree API that the crude oil being offered for sale is above or below, respectively, the weighted average degree API of the seller's imports of crude oil of the same sulfur content category.

(5) A price adjustment shall be made for sulfur content differential of crude oil offered for sale under Special Rule No. 10, Part 211, Subpart C, that is priced under paragraph (b)(2)(ii) of this special rule, by adding to or subtracting from the price three cents per barrel (or as otherwise determined by the Administrator in light of prevailing market conditions) for each one-tenth of one percent that the sulfur content by weight of the crude oil being offered for sale is either below or above, respectively, the percentage representing the weighted average sulfur content of the seller's imported crude oil of the same sulfur content category.

(6) For purposes of the computations set forth in subparagraphs (4) and (5) of this paragraph, crude oil imported from Canada shall not be included.

(7) Each refiner making a purchase or sale pursuant to the provisions of Special Rule No. 10, Part 211, Subpart C, shall maintain records for such sales, which shall be made available to the ERA upon request, listing the volumes and types of domestic and imported crude oil bought or sold, the purchase cost as defined in subparagraph (b)(2) of this special rule, and the actual sales price and transportation expenses incurred in transporting the domestic or imported crude oil to the buyer' refinery.

[FR Doc. 79-1410 Filed 1-11-79; 3:05 am]

TUESDAY, JANUARY 16, 1979
PART IX



OFFICE OF MANAGEMENT AND BUDGET

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BUDGET RESCISSIONS AND DEFERRAL

Reports

federal register

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

January 1979

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of January 1, 1979, of one rescission and 46 deferrals contained in the first four special messages of FY 1979. These messages were transmitted to the Congress on October 2, November 30, December 7, and December 12, 1978.

RESCISSION (ATTACHMENT A)

One rescission proposal totalling $75,000 in budget authority is presently before the Congress (see Attachment A).

DEFERRALS (TABLE A AND ATTACHMENT B)

As of January 1, 1979, $1,732.8 million in 1979 budget authority was being deferred from obligation and another $1.1 million in 1979 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on the rescission and each of the deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III)
Wednesday, December 6, 1978 (Vol. 43, No. 235, Part III)
Wednesday, December 13, 1978 (Vol. 43, No. 240, Part VI)
Monday, December 18, 1978 (Vol. 43, No. 243, Part VI)

JAMES T. MCINTYRE, Jr.,
Director.

Table A

STATUS OF 1979 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$2,866.5
Routine Executive releases (-$1,133 M) and adjustments (+$0.4 M) through January 1, 1979	-1,132.7
Overturned by the Congress	---
Currently before the Congress	$1,733.9 a/

a/ This amount includes $1.1 million in outlays for two Department of the Treasury deferrals.

* Detail does not add to total due to rounding.

[3110-01-C]

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 12/20/78 10:06

AS OF JAN. 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Salaries and expenses								
	BA	R79- 1		75	11 30 78			
TOTAL BA				75				

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D79-31	161,875		11 30 78	-161,875a			
International military education and training	BA	D79-35	24,312		12 7 78	-24,312a			
Foreign military credit sales	BA	D79-45	651,000		12 12 78	-550,000			101,000
	BA								
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		837,187			-736,187			101,000
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				
	BA	D79- 2A			12 7 78				3,530
Forest Service									
Acquisition of lands for Wasatch National Forest	BA	D79-36	209		12 7 78				209
Timber salvage sales	BA	D79-37	5,500		12 7 78				5,500
Expenses, brush disposal	BA	D79- 3	32,225		10 2 78				32,225
Restoration of forest lands									

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979

AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,927			-13			41,914
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D79- 5	9,830		10 2 78				
	BA	D79- 5A		202	12 12 78				10,032
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,481			6,579
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				5,429
United States Fire Administration									
Facilities	BA	D79-32	6,150		11 30 78				6,150
Maritime Administration									
Ship construction	BA	D79-33	157,000		11 30 78	-134,000			23,000
DEPARTMENT OF COMMERCE TOTAL	BA		190,469	202		-139,481			51,190
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D79-34	563,940		11 30 78				563,940
Military Construction									
Military construction, all services	BA	D79- 8	548,451		10 2 78	-248,626		374	300,199

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
DEPARTMENT OF DEFENSE-MILITARY								
TOTAL BA		1,112,391			-248,626		374	864,139
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Alaska hydroelectric power development fund								
BA	D79-10	5,450		10 2 78				5,450
Miscellaneous Accounts								
Wildlife conservation, etc., military reservations								
BA	D79- 9	458		10 2 78				458
DEPARTMENT OF DEFENSE-CIVIL								
TOTAL BA		5,908						5,908
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
TOTAL BA		29,302						29,302
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D79-46	12,811		12 12 78				12,811
Heritage Conservation and Recreation Service								
Land and water conservation fund								

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
	BA	D79-13	30,000		10 2 78				30,000
Geological Survey									
Payments from proceeds, sale of water	BA	D79-14	36		10 2 78				36
Bureau of Mines									
Drainage of anthracite mines	BA	D79-15	1,700		10 2 78	-113			1,587
Office of Territorial Affairs									
Administration of territories	BA	D79-38	25,000		12 7 78				25,000
Trust territory of the Pacific Islands	BA	D79-16	12,000		10 2 78				12,000
DEPARTMENT OF THE INTERIOR TOTAL BA			81,547			-113			81,434
DEPARTMENT OF JUSTICE									
Federal Prison System									
Buildings and facilities	BA	D79-17	25,300		10 2 78				
	BA	D79-17A		11,865	11 30 78	-160			37,005
DEPARTMENT OF JUSTICE TOTAL BA			25,300	11,865		-160			37,005
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Acquisition, operation, & maintenance of buildings	BA	D79-39	36,787		12 7 78				36,787

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
Other									
Emergency refugee and migration assistance fund									
	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78	-4,210			8,040
DEPARTMENT OF STATE									
TOTAL	BA		39,537	9,500		-4,210			44,827
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)									
	BA	D79-20	290,176		10 2 78				290,176
Federal Highway Administration									
Trust fund share of other highway programs									
	BA	D79-21	40,000		10 2 78				40,000
Overseas highway									
	BA	D79-22	13,100		10 2 78				13,100
DEPARTMENT OF TRANSPORTATION									
TOTAL	BA		343,279						343,279
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund									
	BA	D79-23	2,205		10 2 78				
	BA	D79-23A		73	12 7 78	-4			2,274
	O	D79-40	5		12 7 78				5
State and local government fiscal assistance fund									
	BA	D79-24	78,489		10 2 78				
	BA	D79-24A		1,665	12 7 78	-325			79,829

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
	O	D79-25	2,404		10 7 78				
	O	D79-25A		1,562	12 7 78	-2,857			1,109
Bureau of the Mint									
Construction of mint facilities	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY TOTAL BA			86,424	1,738		-329			87,833
DEPARTMENT OF THE TREASURY TOTAL O			2,409	1,562		-2,857			1,114
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness	BA	D79-28	80		10 2 78				80
GENERAL SERVICES ADMINISTRATION TOTAL BA			2,203						2,203
OTHER INDEPENDENT AGENCIES									
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D79-29	10,945		10 2 78	-1,051			9,894
International Communication Agency									
Salaries & expenses	BA	D79-41	2,095		12 7 78				2,095
Acquisition & construction of radio facilities	BA	D79-42	3,141		12 7 78				3,141
Interstate Commerce Commission									

PAGE 7 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
Payments for directed rail service								
BA	D79-30	13,990		10 2 78				13,990
Small Business Administration								
White House conference on small business								
BA	D79-43	1,600		12 7 78				1,600
Navaho & Hopi Indian Relocation Commission								
Salaries and expenses								
BA	D79-44	12,000		12 7 78				12,000
OTHER INDEPENDENT AGENCIES								
TOTAL BA		43,771			-1,051			42,720
TOTAL BA		2,839,245	23,305		-1,130,170		374	1,732,754
TOTAL O		2,409	1,562		-2,857			1,114

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to Congress.

END OF REPORT

[FR Doc. 79-1319 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART X



OFFICE OF PERSONNEL MANAGEMENT

■

CIVIL SERVICE REFORM ACT

Implementation

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PROCEDURES FOR ISSUING REGULATIONS TO IMPLEMENT THE CIVIL SERVICE REFORM ACT OF 1978

Special Transitional Regulation No. 1

AGENCY: Office of Personnel Management.

ACTION: Procedures for issuing interim authorities to implement the Civil Service Reform Act of 1978, Pub. L. 95-454.

SUMMARY: The Civil Service Reform Act of 1978 makes many significant changes to the Federal personnel system. Some provisions of the Act cannot be fully utilized until OPM issues additional implementing regulations. Wherever the full public notice and comment period required for issuing final regulations cannot be completed before the effective date of a provision of the Act, proposed OPM regulations published for public review and comment will be specifically designated to serve as interim authorities.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Howe, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, (202) 632-4628.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

SPECIAL TRANSITIONAL REGULATION NO. 1—PROCEDURES FOR DESIGNATING INTERIM AUTHORITIES

(a) The Civil Service Reform Act of 1978 will require the Office of Personnel Management to issue a significant number of new or additional regulations. Some provisions of the Act will become effective before the full public notice and comment procedures required for issuance of final OPM regulations can be completed. In these cases, OPM will designate its proposed regulations as interim authorities during the comment and consultation period and until their issuance in final form. Interim authorities will be designated by the following statement which will appear in the SUPPLEMENTARY INFORMATION section at the beginning of the proposed regulation:

PURSUANT TO SECTION 553 (d)(3) OF TITLE 5 U.S.C., THE DIRECTOR FINDS THAT GOOD CAUSE EXISTS FOR MAKING THIS AMENDMENT EFFECTIVE IN LESS THAN 30 DAYS, IN ORDER TO PROVIDE CONTINUITY OF OPERATIONS AND TO GIVE IMMEDIATE AND TIMELY EFFECT TO THE APPROPRIATE PROVISIONS OF THE CIVIL SERVICE REFORM ACT OF 1978.

(b) No proposed regulation will serve as an authority before the effective date of the provision in the Act which it implements.

(c) Proposed regulations designated as interim authorities will be published as Federal Personnel Manual Bulletins in addition to being published in the FEDERAL REGISTER.

(d) Each FPM Bulletin will transmit a copy of the FEDERAL REGISTER notice and a fact sheet containing the following information:

(1) Title and citation of the proposed regulation;

(2) A brief description of its topic and purpose;

(3) It's effective date if it is designated as an interim authority;

(4) A statement that the material is available for review in the agency office maintaining the Federal Personnel Manual; and

(5) The name and mailing address of the OPM official to whom comments should be submitted.

(e) Agencies will identify on the face of the fact sheet the office where the proposed regulations are available for review and post the fact sheet in a prominent place. These notice procedures satisfy the requirement for posting proposed regulations in Federal agencies established by 5 U.S.C. 1103(b)(2)(A).

(f) OPM will consider all comments received on its proposed regulations. Proposed regulations designated as interim authorities are final while they are in effect, but are subject to change when the final rulemaking procedures are completed.

(Pub. L. 95-454.)

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1255 Filed 1-11-79; 4:45 pm]

[6325-01-M]

PART 210—BASIC CONCEPTS AND DEFINITIONS

Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: New paragraphs (c), (d), and (e) are added to § 210.101, *Applicability of various parts of regulations,* to provide coded lists of agencies, actions, and employees and positions excluded from one or more parts of the regulations. These paragraphs would provide lists of exclusions in one place to be referred to by the coded number where applicable in a part or parts. This change would eliminate repetition and make it easier to update when necessary.

DATE: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments on both format and content will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Office of Personnel Management, Workforce Effectiveness and Development, Room 3A07, 1900 E Street NW., Washington, D.C. 20415

FOR FURTHER INFORMATION CONTACT:

Cynthia Field, 202-632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, 5 CFR 210.101 is amended by adding paragraph (c), (d) and (e) as set out below:

§ 210.101 Applicability of various parts of regulations.

* * * * *

(c) *Federal agencies.* Identification codes for Federal agencies for purposes of exclusion from the coverage of the parts are as follows:

001. U.S. Postal Service

002. Postal Rate Commission

(d) *Actions.* Identification codes for actions for purposes of exclusion from the coverage of the parts are as follows:

100. Action initiated under the authorities in 5 U.S.C. 1206.

101. Action taken under 5 U.S.C. 7521 against an administrative law judge.

102. Action taken under 5 U.S.C. 7532 in the interest of national security.

103. Action taken under provision of statute, other than one codified in 5 U.S.C., which excepts the action from provisions of 5 U.S.C.

104. Removal from the senior Executive Service to a civil service position outside the Senior Executive Service.

105. Reduction-in-force action governed by Part 351.

106. Action under Part 536 resulting from downgrading decision which entitles employee to retained grade for two years.

107. Voluntary action initiated by employee.

108. Adverse action for cause taken under Part 752.

109. Action taken by agency when directed by OPM under part 754.

110. Involuntary retirement because of disability under Part 831.

111. Termination of appointment in accordance with terms specified as a condition of employment at the time the appointment was made.

112. Adverse action by the Office.

113. Reduction of an employee's rate of pay from a rate which is contrary to law or regulation to a rate which is required or permitted by law or regulation.

114. Suspension for 14 days or less of an individual in the Senior Executive Service.

115. Action against reemployed annuitant.

116. Action against a National Guard Technician.

(e) *Employees and positions.* Identification codes for employees and positions for purposes of exclusion from the coverage of the parts are as follows:

200. Employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of the United States Senate.

201. Presidential appointee.

202. Employee in the excepted service who is not a preference eligible except an employee with competitive status occupying a position in Schedule B of Part 213.

203. Physician, dentist, or nurse in the Department of Medicine and Surgery of the Veterans Administration employed under chapter 73 of 38 U.S.C.

(5 U.S.C. 1302, 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1532 Filed 1-11-79; 4:58 pm]

[6325-01-M]

PART 315—CAREER AND CAREER CONDITIONAL EMPLOYMENT

Probationary Periods for New Managers and Supervisors

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: In accordance with 5 U.S.C. 3321, as amended by Pub. L. 95-454, and Section 2-103 of Executive Order No. 12107, this regulation provides for the establishment of a probationary period for new appointees to supervisory or managerial positions and authorizes return rights for employees who fail to satisfactorily complete the probationary period.

DATES: Effective Date: Upon implementation by individual agencies, but no later than August 11, 1979. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to Office of Personnel Management, Room 6524, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Raleigh M. Neville, 202-632-6817.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provision of the Civil Service Reform Act of 1978.

The definitions of "supervisory position" and "management postion" referred to in § 315.901 appear in the Federal Personnel Manual which is available in the personnel offices of all Federal agencies and in Federal Depository Libraries.

Accordingly, the headnote of Subpart H of Part 315 of 5 CFR is amended and a new Subpart I is added as follows:

Subpart H—Probation on Initial Appointment to a Competitive Position

* * * * *

Subpart I—Probation on Initial Appointment to a Supervisory or Managerial Position

Sec.

315.901 Definitions.
315.902 Basic Requirement.
315.903 Length of the Probationary Period.
315.904 Crediting Service Toward Completion of the Probationary Period.
315.905 Failure to Complete the Probationary Period.
315.906 Appeal Rights.
315.907 Relationship to probationary period for competitive appointment.

§ 315.901 Definitions.

In this subpart:

"Supervisory position" and "Managerial postion" have the meaning given then by Chapter 315, subchapter 9, of the Federal Personnel Manual.

§ 315.902 Basic Requirement.

(a) An employee is required to serve a probationary period prescribed by the agency upon initial appointment to a supervisory and/or managerial position.

(b) An employee is required to complete a single probationary period in a supervisory position and a single probationary period in a managerial position, regardless of the number of agencies, occupations, or positons in which the employee serves. However, an agency may by regulation provide for exceptions to the probationary period for managers who have satisfactorily completed a probationary period for supervisors when justified on the basis of performance and experience.

(c) Employees who are serving or have served in supervisory or managerial positions in the Federal Government as of the date this requirement is effective are exempt from its provisions, except that supervisors who are assigned to managerial positions may, according to agency regulations, be required to serve a probationary period for managers.

§ 315.903 Length of the Probationary Period.

The authority to determine the length of the probationary period is delegated to the head of each agency, provided that it be of reasonable fixed duration, appropriate to the position, and uniformly applied. An agency may establish different probationary periods for different occupations or a single one for all agency employees.

§ 315.904 Crediting Service Toward Completion of the Probationary Period.

(a) An employee who is reassigned, transferred, or promoted to another supervisory or managerial position while serving a probationary period under this subpart is subject to the probationary period prescribed for the new position. Service in the former po-

sition counts toward completion of the probationary period in the new position. If the former position was supervisory and the new position managerial, service counts in the manner prescribed by agency regulation.

(b) The conditions under which prior service is otherwise counted toward completion of the probationary period will be published in the Federal Personnel Manual.

§ 315.905 Failure to Complete the Probationary Period.

(a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who does not complete the probationary period is entitled to be returned to a position in the agency of no lower grade and pay than the employee left to accept the supervisory or managerial position.

(b) The agency must notify the employee that he or she is being accorded return rights in accordance with this section and that he or she has a right to appeal an agency action that he or she believes does not conform to the requirements of this section.

(c) Nothing in this subpart prohibits an agency from taking action against an employee for reasons unrelated to supervisory or managerial performance.

§ 315.906 Appeal Rights.

(a) *Return to former position or equivalent.* An employee who is returned under this subpart to a nonsupervisory or nonmanagerial position of no lower grade and pay than the one he or she left to accept the supervisory or managerial position, may appeal the agency's decision only for reasons of alleged improper discrimination because of race, color, religion, sex, national origin, partisan political reasons, marital status, physical handicap; or age, provided that at the time of the alleged discriminatory action, the employee was at least 40 years of age. Appeals based on partisan political affiliation and marital status are to be submitted to the Merit Systems Protection Board (MSPB). Appeals based on race, color, religion, national origin, sex, physical handicap, or age are to be submitted to the Equal Employment Opportunity Commission (EEOC).

(b) *Adverse action.* An action against an employee serving a probationary period under this subpart, for reasons other than supervisory or managerial performance, is an adverse action and is appealable to MSPB. If the employee alleges that the adverse action was in any way due to improper discrimination because of race, color, religion, sex, national origin, partisan political reasons, marital status, physical handicap, or age, provided that at the time of the alleged discriminatory action, the employee was at least 40 years of age, he or she may appeal to MSPB.

§ 315.907 Relationship to probationary period for competitive appointment.

Nothing in this subpart prohibits an agency from taking an action against an individual serving a probationary period under subpart H of this Part. (Pub. L. 95-454 and E.O. 12107.)

OFFICE OF PERSONNEL MANAGEMENT
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1533 Filed 1-11-79; 5:03 pm]

[6325-01-M]

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: This new Part 432 has been developed to implement subchapter I of chapter 43 of the Civil Service Reform Act of 1978. It covers reduction in grade and removal based on unacceptable performance.

DATES: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Workforce Effectiveness and Development Group, Office of Personnel Management, Room 3A07, 1900 E St., NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Wilma Lehman, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is adding interim regulation, Part 432, to 5 CFR as follows:

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Subpart A—Principal Statutory Requirements

Sec.
432.101 Principal Statutory Requirements

Subpart B—Regulatory Requirements of the Office of Personnel Management

432.201 Regulatory requirements.
432.202 Coverage.
432.203 Definitions.
432.204 Timing of actions.
432.205 Procedures.
432.206 Interim procedures.
432.207 Appeal and grievance rights.
432.208 Agency records.

AUTHORITY: 5 U.S.C. 4305

Subpart A—Principal Statutory Requirements

§ 432.101 Principal Statutory Requirements.

This subpart sets forth for the benefit of the user the principal statutory requirements governing reductions in grade and removals based on unacceptable performance.

(a) *Opportunity to demonstrate acceptable performance.* 5 U.S.C. 4302(b)(6) requires that, under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

(b) *Actions based on unacceptable performance.* 5 U.S.C. 4303 provides:

"(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance.

"(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

"(A) 30 days' advance written notice of the proposed action which identifies—

"(i) specific instances of unacceptable performance by the employee on which the proposed action is based; and

"(ii) the critical elements of the employee's position involved in each instance of unacceptable performance;

"(B) be represented by an attorney or other representative;

"(C) a reasonable time to answer orally and in writing; and

"(D) a written decision which—

"(i) in the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

"(ii) unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

"(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than

30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management.

"(c) The decision to retain, reduce in grade, or remove an employee—

"(1) shall be made within 30 days after the date of expiration of the notice period, and

"(2) in the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee—

"(A) which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

"(B) for which the notice and other requirements of this section are complied with.

"(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (B)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

"(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701 of this title.

"(f) This section does not apply to—

"(1) the reduction to the grade previously held of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title,

"(2) the reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

"(3) the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

(c) *Regulations.* 5 U.S.C. 4305 provides that the Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 432.201 Regulatory requirements.

This subpart contains the regulations of the Office of Personnel Management which implement the above sections of chapter 43 and are prescribed by the Office under authority of 5 U.S.C. 4305.

§ 432.202 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of an employee based solely on unacceptable performance.

(b) *Employees and agencies covered.* The employee and agency coverage of this part is identical with that of section 430.202 of Part 430.

(c) *Exclusions.* (1) This part does not apply to actions excluded by 5 U.S.C. 4303(f).

(2) This part does not apply to employees and agencies excluded by section 430.202 of Part 430.

(3) This part does not apply to the following actions coded in section 210.101(d) of Part 210: Numbers 100 through 113, 115, and 116.

§ 432.203 Definitions.

(a) *Unacceptable performance* is defined in 5 U.S.C. 4301(3).

(b) *Reduction in grade* means the involuntary assignment of an employee to a position at a lower classification or job grading level.

(c) *Removal* means the involuntary separation of an employee from employment with an agency except when taken as a reduction-in-force action.

§ 432.204 Timing of actions.

(a) *At any time.* An employee may be reduced in grade or removed at any time during the performance appraisal cycle that performance in one or more critical elements of the job becomes unacceptable.

(b) *One-year limitation.* 5 U.S.C. 4303(c) places a time restriction on the use of instances of unacceptable performance by an employee.

(c) *Decision.* 5 U.S.C. 4303(c)(1) specifies the time within which a decision to retain or take action under this part must be made.

§ 432.205 Procedures.

(a) *Statutory requirements.* An employee under this part whose reduction in grade or removal is proposed under this part is entitled to the procedures specified in 5 U.S.C. 4303(b)(1).

(b) *Extension of notice period.* 5 U.S.C. 4303(b)(2) provides that the agency may extend the notice period for a reduction in grade or removal under this part for a period not to exceed 30 days. The agency may further extend the notice period with prior approval of the Office of Personnel Management.

(c) *Representation.* 5 U.S.C. 4303(b)(1)(B) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

§ 432.206 Interim procedures.

Until the date, but no later than October 1, 1981, that an agency has established its performance appraisal system(s) and communicated to each employee the performance standards and critical elements of the employee's position, an action under this part may only be initiated 30 days after:

(a) the critical elements of the employee's position and

(b) the performance standards for the one or more critical elements for which the employee's performance is unacceptable have been communicated to the employee against whom an action is contemplated.

§ 432.207 Appeal and grievance rights.

(a) *Appeal rights.* 5 U.S.C. 4303(e) provides for an appeal of an action under this part to the Merit Systems Protection Board.

(b) *Grievance rights.* 5 U.S.C. 7121(e)(1) requires an aggrieved employee to elect to appeal under this part or, where applicable, to file a grievance under the negotiated grievance procedure, but not both.

§ 432.208 Agency records.

(a) *When the action is effected.* The agency shall preserve all relevant documentation concerning a reduction in grade or a removal which is based on unacceptable performance and furnish the records to the Merit Systems Protection Board upon its request and make them available for review by the affected employee or his or her representative upon request. As a minimum, the agency's records shall consist of a copy of the notice of proposed action, the answer of the employee when it is in writing, a summary thereof when the employee makes an oral reply, the notice of decision and the reasons therefor, and any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

(b) *When the action is not effected.* 5 U.S.C. 4303(d) governs agency records when an action under this part is not effected.

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
SPECIAL ASSISTANT
to the Director.

[FR Doc. 79-1530 Filed 1-11-79; 5:06 pm]

[6325-01-M]

PART 752—ADVERSE ACTIONS

Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: Part 752, Adverse Actions, have been completely reorganized and revised to implement subchapters I and II of chapter 75 of the Civil Service Reform Act of 1978.

DATES: Effective Date: January 11, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Office of Personnel Management, Workforce Effectiveness and Development, Room 3A07, 1900 E. Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Wilma Lehman, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Requirements Governing an Action in Process on January 11, 1979: The requirements for an adverse action in process on January 11, 1979, will be determined by the date on which the employee received the notice of proposed adverse action. If the notice is received by the employee before January 11, 1979, the entire action will be governed by the law and regulation in effect on that date. If the notice is received by the employee on or after January 11, 1979, the requirements of this interim regulation will apply.

Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is revising 5 CFR Part 752, as set forth below:

PART 752—ADVERSE ACTIONS

Subpart A—Principal Statutory Requirements for Suspension for 14 Days or Less

Sec.
752.101 Principal Statutory Requirements.

Subpart B—Regulatory Requirements for Suspension for 14 Days or Less

752.201 Coverage.
752.202 Standard for action.
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Subpart C—Principal Statutory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

752.301 Principal Statutory Requirements.

Subpart D—Regulatory Requirements Implementing Subpart C

752.401 Coverage.
752.402 Definitions.
752.403 Standards for action.
752.404 Procedures.
752.405 Appeal and grievance rights.
752.406 Agency records.

AUTHORITY: 5 U.S.C. 7504, 7514.

Subpart A—Principal Statutory Requirements for Suspension for 14 Days or Less

§ 752.101 Principal Statutory Requirements.

This subpart sets forth for the benefit of the user the principal statutory requirements for suspensions for 14 days or less found in subchapter I of chapter 75. (5 U.S.C. 7501-7504)

"CHAPTER 75—ADVERSE ACTIONS

"SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

"§ 7501. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

"(2) 'suspension' means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

"§ 7502. Actions covered

"This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1206 of this title.

"§ 7503. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service (including discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one-year period or any other pattern of discourteous conduct).

"(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

"(1) an advance written notice stating the specific reasons for the proposed action;

"(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7504. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter."

Subpart B—Regulatory Requirements for Suspension for 14 Days or Less

NOTE.—This subpart contains regulations of the Office of Personnel Management prescribed under 5 U.S.C. 7504 of chapter 75 of title 5, United States Code.

§ 752.201 Coverage.

(a) *Actions covered.* This subpart covers suspension for 14 days or less.

(b) *Employees covered.* The following employees are covered by this subpart:

(1) An employee covered by the definition in 5 U.S.C. 7501(1);

(2) An employee with competitive status who occupies a position under Schedule B of Part 213 under a nontemporary appointment.

(c) *Definitions.* In this subpart,

(1) *Day* means calendar day.

(2) *Suspension* has the meaning given in 5 U.S.C. 7501(2).

(d) *Exclusions.* This subpart does not apply to actions excluded by 5 U.S.C. 7502 and the following numbered items in the Master List of Exclusions in subsections 210.101(d), and (e) of Part 210: 103, 114 through 116, and 200 through 203.

§ 752.202 Standard for action.

An agency may take action under this subpart only as set forth in 5 U.S.C. 7503(a).

§ 752.203 Procedures.

(a) *Employee entitlements.* An employee under this subpart whose suspension is proposed under this subpart

is entitled to the procedures provided in 5 U.S.C. 7503(b).

(b) *Time for reply.* The time allowed for an employee's reply shall be sufficient to afford the employee an opportunity to respond to the notice and to supply any material under 5 U.S.C. 7502(b)(2). In no case may it be less than 24 hours.

(c) *Disallowance of representative.* 5 U.S.C. 7503(b)(3) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of the priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(d) *Agency Decision.* In arriving at its written decision, the agency shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the employee or his or her representative made to a designated official. The agency shall deliver the notice of decision to the employee at or before the time the action will be effective.

(e) *Agency records.* The agency shall maintain copies of the items specified in 5 U.S.C. 7503(c) and shall furnish them upon request as required by that subsection.

Subpart C—Principal Statutory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

§ 752.301 Principal Statutory Requirements.

This subpart sets forth for the benefit of the user the statutory requirements of subchapter II of Chapter 75. (5 U.S.C. 7511-7514)

"CHAPTER 75—ADVERSE ACTIONS

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"§ 7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the President or the head of an agency for a position which is excepted from the comeptitive service by statute.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office.

"§ 7512. Actions covered

"This subchapter applies to—

"(1) a removal;

"(2) a suspension for more than 14 days;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but does not apply to—

"(A) a suspension or removal under section 7532 of this title,

"(B) a reduction-in-force action under section 3502 of this title,

"(C) the reduction in grade of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held immediately before becoming such a supervisor or manager,

"(D) a reduction in grade or removal under section 4303 of this title, or

"(E) an action initiated under section 1206 or 7521 of this title.

"§ 7513. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Board upon its request and to the employee affected upon the employee's request.

"§ 7514. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter, except as it concerns any matter with respect to which the Merit Systems Protection Board may prescribe regulations.".

Subpart D—Regulatory Requirements Implementing Subpart C

NOTE.—This subpart contains the regulations of the Office of Personnel Management presecribed under authority of 5 U.S.C. 7514.

§ 752.401 Coverage.

(a) *Adverse Actions Covered.* This subpart applies to an action set forth in 5 U.S.C. 7512.

(b) *Employees Covered.* The following employees are covered by this subpart:

(1) An employee covered by the definition in 5 U.S.C. 7511(a)(1), including an employee of the Government Printing Office.

(2) An employee with competitive status who occupies a position in Schedule B of Part 213 under a nontemporary appointment.

(c) *Exclusions.* This subpart does not apply to actions, employees, and agencies excluded by: 5 U.S.C. 7511(b); 5 U.S.C. 7512; and the following numbered items in the Master Lists of Exclusions in Subsections 210.101(d) and (e) of Part 210: 103, 106, 107, 109 through 116, and 200 through 203.

§ 752.402 Definitions.

In this subpart,

(a) *Day* means calendar day.

(b) *Suspension* has the meaning given in 5 U.S.C. 7501(2).

(c) *Grade* has the meaning given in 5 U.S.C. 7511(3).

(d) *Pay* has the meaning as given in 5 U.S.C. 7511(4).

(e) *Furlough* has the meaning as given in 5 U.S.C. 7511(5).

§ 752.403 Standard for Action.

An agency may take adverse action under this subpart only as set forth in 5 U.S.C. 7513(a).

§ 752.404 Procedures

(a) *Statutory entitlements.* An employee against whom action is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7513(b).

(b) *Right to review material.* An employee against whom action under this subpart is proposed shall be informed of his or her right to review the material on which the proposal was based and which is relied on to support the reasons in the notice of proposal. The agency may not use material which cannot be disclosed to the employee or his or her representative or designated physician under section 294.401 of Part 294 to support the reasons in the notice.

(c) *Official to hear reply.* The agency shall designate an official to hear the employee's answer who has authority either to make or recommend a final decision on the proposed adverse action.

(d) *Exceptions.* (1) 5 U.S.C. 7513(b)(1) authorizes an exception to the 30 days advance written notice when the crime provision is invoked.

(2) The advance written notice and opportunity to answer are not necessary for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring immediate curtailment of activities.

(3) The 30 days advance written notice is not required for a suspension during the notice period of a removal or an indefinite suspension when the circumstances are such that retention of the employee in an active duty status may be injurious to the employee, his or her fellow workers, or the general public; may result in damage to government property; or may be detrimental to the interests of the Government. The agency shall include in the notice of suspension the reasons for not retaining the employee in an active duty status during the notice period. The agency may require the employee to answer the proposed action and furnish affidavits and other documentary evidence in support of the answer within such time as under the circumstances would be reasonable, but not less than 7 days. When the circumstances require immediate action, the agency may place the employee in a nonduty status with pay for such time, not to exceed 10 days, as is necessary to effect the suspension.

(e) *Disallowance of representative.* 5 U.S.C. 7513(b)(3) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of the priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(f) *Agency decision.* In arriving at its written decision, the agency shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the employee or his or her representative made to a designated official. The agency shall deliver the notice of decision to the employee at or before the time the action will be effective.

(g) *Hearing.* Under 5 U.S.C. 7513(c), the agency may in its regulations provide a hearing in place of or in addition to the opportunity for written and oral reply.

§ 752.405 Appeal and Grievance Rights.

(a) *Appeal rights.* Under the provisions of 5 U.S.C. 7513(d), an employee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) *Grievance rights.* 5 U.S.C. 7121(e)(1) requires an aggrieved employee to elect to appeal under this subpart or, where applicable, to file a grievance under the negotiated grievance procedure, but not both.

§ 752.406 Agency Records.

The agency shall maintain copies of the items specified in 5 U.S.C. 7513(e) and shall furnish them upon request as required by that subsection.

OFFICE OF PERSONNEL MANAGEMENT
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1531 Filed 1-11-79; 4:53 pm]

[6325-01-M]

PART 308—VOLUNTEER SERVICE

Acceptance of Volunteer Service

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management is issuing interim regulations on Federal agency acceptance of uncompensated volunteer service. This action reflects definitions of section 301 of the Civil Service Reform Act of 1978 (Pub. L. 95-454) and in addition, reminds Federal agencies to observe Federal, State, and local laws and standards on using the services of minors.

DATES: Effective Date: January 11, 1979, and until final regulation is issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to James R. Poole, Student Employment Programs, Office of Personnel Management, Room 6508, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

James R. Poole, 202-632-5678.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Section 301 of the Civil Service Reform Act authorizes heads of agencies to accept volunteer services for the United States, subject to regulations issued by the Office of Personnel Management. Specific instructions and guidance for agency use in the development of volunteer service programs will be published by the Office of Per-

sonnel Management in subchapter 7, chapter 308 of the Federal Personnel Manual.

Accordingly, the Office of Personnel Management is adding Part 308 to Title 5 of the Code of Federal Regulations as set forth below:

PART 308—VOLUNTEER SERVICE

Secs.
308.101 Definitions.
308.102 Eligibility and status.
308.103 Authority.

AUTHORITY: 5 U.S.C. 3301, 3302; Pub. L. 95-454, 3 CFR 1979 Comp., p. 113.

§ 308.101 Definitions.

In this part: (a) "Volunteer service" under the Act is limited to services performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experience for the student. Such service is to be uncompensated and will not be used to displace any employee.

(b) "Student" is an individual who is enrolled not less than half-time in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such individual shows to the satisfaction of the Office of Personnel Management that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

§ 308.102 Eligibility and status.

(a) *Age.* Volunteer service should be in accordance with appropriate Federal, State, and local laws and standards on using the services of minors.

(b) *Status.* A student participating under an agency volunteer program is not considered to be a Federal employee for any purposes other than injury compensation or laws related to the Tort Claims Act. Service is not creditable for leave accrual or any other employee benefits.

§ 308.103 Authority.

Section 301 of the Civil Service Reform Act of 1978, Pub. L. 95-454, authorized Federal departments and agencies to establish programs designed to provide educationally related work assignments for students in nonpay status.

(5 U.S.C. 3301, 3302; Pub. L. 95-454, 3 CFR 1979 Comp., p. 113.)

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1564 Filed 1-12-79; 1:16 pm]

[6325-01-M]

PART 430—PERFORMANCE APPRAISAL

Establishment; Interim Regulation

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: This interim regulation implements subchapter I of Chapter 43 of the Civil Service Reform Act of 1978. It covers the establishment of performance appraisal systems.

DATES: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Workforce Effectiveness and Development Group, Office of Personnel Management, Room 3A07, 1900 E St., NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Mary Sugar, (202) 632-5623,

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is revising Part 430 as set out below:

PART 430—PERFORMANCE APPRAISAL

Subpart A—Statutory Provisions

Sec.
430.101 Statutory provisions.

Subpart B—Regulatory Requirements of the Office of Personnel Management

430.201 Regulatory requirements.
430.202 Coverage.
430.203 Definitions.
430.204 The performance appraisal process.
430.205 Appraisal system documentation.
430.206 OPM review of appraisal systems.

Subpart C—Implementation and Interim Procedures

430.301 Implementation of this part.
430.302 Interim assignment of performance ratings.

AUTHORITY: 5 U.S.C. 4305.

Subpart A—Statutory Provisions

§ 430.101 Statutory provisions.

This subpart sets forth for the benefit of the user the provisions of Subchapter I of Chapter 43 of title 5, United States Code, relating to establishment of performance appraisal systems and appraisals of employees' performance.

(a) *Definitions.* 5 U.S.C. 4301 contains the following definitions:

"For the purpose of this subchapter—
"(1) 'agency' means—
"(A) an Executive agency;
"(B) the Administrative Office of the United States Courts; and
"(C) the Government Printing Office;
but does not include—
"(i) a Government corporation;
"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or
"(iii) the General Accounting Office;
"(2) 'employee' means an individual employed in or under an agency, but does not include—
"(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;
"(B) an individual in the Foreign Service of the United States;
"(C) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration whose pay is fixed under chapter 73 of title 38;
"(D) an administrative law judge appointed under section 3105 of this title;
"(E) an individual in the Senior Executive Service;
"(F) an individual appointed by the President; or
"(G) an individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; and
"(3) 'unacceptable performance' means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position.

(b) *Establishment of performance appraisal systems.* 5 U.S.C. 4302 provides:

"(a) Each agency shall develop one or more performance appraisal systems which—
"(1) provide for periodic appraisals of job performance of employees;
"(2) encourage employee participation in establishing performance standards; and
"(3) use the results of performance appraisals as a basis for training, reward-

ing, reassigning, promoting, reducing in grade, retaining, and removing employees;

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

"(1) establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;

"(2) as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

"(3) evaluating each employee during the appraisal period on such standards;

"(4) recognizing and rewarding employees whose performance so warrants;

"(5) assisting employees in improving unacceptable performance; and

"(6) reassigning, reducing in grade, or emoving employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance".

(c) *Responsibilities of the Office of Personnel Management.* 5 U.S.C. 4304 provides:

"(a) The Office of Personnel Management shall take technical assistance available to agencies in the development of performance appraisal systems.

"(b)(1) The Office shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.

"(2) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this subchapter to determine the extent to which any such system meets the requirements to this subchapter and shall periodically report its findings to the Office and to the Congress.

"(3) If the Office determines that a system does not meet the requirements of this subchapter (including regulations prescribed under section 4305), the Office shall direct the agency to implement an appropriate system or to correct operations under the system, and any such agency shall take any action so required."

(d) *Regulations.* 5 U.S.C. 4305 provides:

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

(b) The item relating to chapter 43 in the chapter analysis for part III of title 5, United States Code, is amended by striking out "Performance Rating" and inserting in lieu thereof "Performance Appraisal".

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 430.201 Regulatory requirements.

This subpart sets forth regulations of the Office of Personnel Management which supplement subchapter I of chapter 43 and are prescribed by the Office under authority of 5 U.S.C. 4305.

§ 430.202 Coverage.

(a) *Employees and agencies covered by statute.* (1) 5 U.S.C. 4301(1) lists agencies covered by this part. (2) 5 U.S.C. 4301(2) lists employees covered by statute by this part.

(b) *Authority of the Office to exclude positions.* The Office may exclude any position or group of positions in the excepted service upon a determination by the Director that an exception is warranted in the interest of good administration. A request for an exception must be submitted in writing by the agency head or a designee and must explain how the application of this part would not be in the interest of good administration.

(c) *Exclusions.* This subpart does not apply to agenices or employees excluded by 5 U.S.C. 4301 (1) and (2) and the following numbered items in the Master List of Exclusions in Part 210 of the Office's regulations: 001 and 002.

§ 430.203 Definitions.

In this part—

(a) "Appraisal system" means a performance appraisal system established by an agency or component of an agency under subchapter I of chapter 43 title 5, U.S.C. and Subpart B of this part which provides for establishment of performance standards, identification of critical elements, communication of standards and critical elements to employees, establishment of performance appraisal methods and procedures based on previously established standards and critical elements, and appropriate use of appraisal information in making personnel decisions;

(b) "Performance" means an employee's accomplishment of assigned duties and responsibilities;

(c) "Appraisal" means comparison under an appraisal system of an employee's performance of duties and responsibilities with performance standards;

(d) "Performance standards" are the expressed measure of level of achievement, incluidng quantity, quality, and timeliness, established by management for the duties and responsibilities of a position or group of positions;

(e) "Critical element" means any requirement of the job which is sufficiently important that inadequate performance of it outweighs acceptable or better performance in other aspects of the job.

(f) "Appraisal period" means the period of time established by an appraisal system for which an employee's performance will be reviewed in order to appraise that performance for the purposes enumerated in paragraph (c) of this section; and

(g) "Unacceptable performance" is defined in 5 U.S.C. 4301(3).

§ 430.204 The performance appraisal process.

(a) As required by 5 U.S.C. 4302(a), each agency shall establish one or more appraisal systems for appraising the work performance of employees during an appraisal period. Any appraisal of work performance used in a personnel decision is subject to the provisions of this part.

(b) 5 U.S.C. 4302(a) requires that each appraisal system shall provide for establishing performance standards based on the requirements of employees' positions, communicating the expected standards of performance and the critical elements of the position at the beginning of each appraisal period, and appraising employees based on a comparison of performance with the previously established standards. An agency shall encourage participation of employees in establishing performance standards.

(c) Performance standards and critical elements must be consistent with the duties and responsibilities contained in employees' position descriptions.

(d) An appraisal system shall not include any controls, such as a requirement to rate on a bell curve, that prevent fair appraisal of performance in relation to performance standards.

(e) 5 U.S.C. 4302 requires that each appraisal system shall provide for periodic appraisals of performance. Except as provided below, employees shall be appraised on at least an annual basis. A system may provide for longer appraisal periods for employees not covered by merit pay provisions when a longer period is warranted by the duties and responsibilities of a position or group of positions.

(f) Periodic appraisals shall be in writing.

(g) A system shall provide for appraisals of performance of employees detailed to different positions when assignments are of sufficient duration to permit accurate appraisals of performance, and for giving appropriate consideration to this performance in making personnel decisions.

(h) Performance appraisals shall be used:

(1) To provide employees with information on their performance and how it may be improved, and

(2) As a basis for decisions to grant awards and grant or withhold pay increases, i.e., within-grade increases, step increases, quality step increases, and merit pay; to reassign, promote, and train employees; to retain employees in reduction in force; and to reduce in grade or remove employees.

§ 430.205 Appraisal system documentation.

(a) Each appraisal system must include statements of:

(1) The employees it covers;

(2) The method or procedure by which performance standards and critical elements are established and employees are appraised;

(3) The ways in which employees are advised of performance standards and critical elements, are kept informed of their performance, and are notified of their appraisals;

(4) The supervisory officials, by definition or category, who are responsible for appraising performance and, if applicable, reviewing or approving appraisals;

(5) The records to be kept and the uses of those records; and

(6) The manner in which appraisals are used as a basis for personnel decisions, or references to where this information may be found.

(b) An agency must provide appropriate training and information to supervisors and employees on the appraisal process.

(c) An agency must establish methods and procedures to conduct periodic evaluations of the effectiveness of its appraisal system or systems and use the evaluation data to refine, alter, or improve the system(s).

§ 430.206 OPM review of appraisal systems.

(a) As required by 5 U.S.C. 4304(b) agencies must submit proposed systems to the Office of Personnel Management for review as conforming to the requirements of this part. Depending on the approach to performance appraisal chosen by the agency, this may be accomplished by an agency's headquarters in either of two ways. First, it may submit an appraisal system or systems to be used agency-wide. Second it may submit criteria governing systems developed by subordinate organizations. The Office will normally review submissions within 30 days.

(b) The Office will review the operation of appraisal systems and supporting documentation to determine their compliance with the requirements of this part, contributions to organizational productivity, the quality of the appraisal process, evidence of appropriate use of performance information in personnel decisions, and agency utilization of evaluation data to refine or improve appraisal systems. As provided by 5 U.S.C. 4304(b)(3), if the Office determines that an agency system does not meet the requirements of this part, it may direct the agency to implement an appropriate system or to correct operations under the system and the agency shall take any action so required.

Subpart C—Implementation and Interim Procedures

§ 430.301 Implementation of this part.

Each agency covered by Subparts A and B of this part shall submit proposed appraisal systems to the Office for review on or by July 31, 1981. Each agency must implement an approved system or systems and inform all employees covered by this part of the performance standards and critical elements of their positions on or before October 1, 1981.

§ 430.302 Interim assignment of performance ratings.

(a) The requirement for and the system of assigning summary adjective performance ratings which were in effect on January 10, 1979, shall continue in effect until (1) modified by the agency; or (2) the agency implements an appraisal system which conforms to the provisions of this part.

(b) A performance appraisal or a summary adjective rating assigned on or after January 11, 1979, under paragraph (a) of this section are grievable under Part 771, *Agency Grievance System*, of this title unless a modified grievance procedure is established on an interim basis, or grievable under a negotiated grievance procedure covering such complaints.

(c) Interim modifications to performance rating plans in effect on January 10, 1979, shall be approved by the agency head or a designee.

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1563 Filed 1-12-79; 1:16 pm]

Department	Billing Code
Federal Trade Commission	6750-01
Fine Arts Commission	6330-01
Foreign Claims Settlement Commission	6770-01
General Accounting Office	1610-01
General Services Administration:	
Automated Data and Telecommunications Service	6820-25
Federal Preparedness Agency, Executive Director	6820-29
Federal Property Resources Service	6820-96
Federal Supply Service	6820-24
General Counsel	6820-38
National Archives and Records Service	6820-27
OAD	6820-34
Office of Data Systems	6820-37
Office of Finance	6820-39
Office of Personnel	6820-30
Office of Stockpile Disposal, Federal Preparedness Agency	6820-28
Public Buildings Service	6820-23
Government Printing Office	1505-01
Health, Education and Welfare Department:	
Alcohol, Drug Abuse and Mental Health Administration	4110-88
Center for Disease Control	4110-86
Center for Disease Control/National Institute for Occupational Safety and Health	4110-87
Federal Council on Aging	4110-92
Food and Drug Administration	4110-03
Health Care Financing Administration	4110-35
Health Resources Administration	4110-83
Health Services Administration	4110-84
Human Development Services Office	4110-92
Institute of Museum Services	4110-24
National Institute of Education	4110-39
National Institutes of Health	4110-08
Office of Assistant Secretary for Health	4110-85
Office of Education (EA)	4110-89
Office of Education (EECS)	4110-02
Office of the Secretary	4110-12
Social Security Administration	4110-07
Housing and Urban Development Department	4210-01
Inter-American Foundation	7025-01
Intergovernmental Relations, Advisory Commission	6115-01
Interior Department:	
Fish and Wildlife Service	4310-55
Geological Survey	4310-31
Hearings and Appeals Office	4310-10
Heritage Conservation and Recreation Service	4310-03
Indian Affairs Bureau	4310-02
Land Management Bureau	4310-84
Mines Bureau	4310-53
National Park Service	4310-70
Office of Secretary	4310-10
Outdoor Recreation Bureau	4310-03
Reclamation Bureau	4310-09
Solicitor	4310-17
Surface Mining Reclamation and Enforcement Office	4310-05
Territorial Affairs Office	4310-93
Water Research and Technology Office	4310-49
Young Adult Conservation Corps	4310-HJ
International Boundary and Water Commission, United States and Mexico	4710-03
International Broadcasting, Board for	6155-01
International Communications Agency	8230-01
International Joint Commission—United States and Canada	4710-14
International Trade Commission	7020-02
International Year of the Child, National Commission	6820-49
Interstate Commerce Commission	7035-01
Japan-U.S. Friendship Commission	6820-95
Justice Department:	
Attorney General	4410-01
Drug Enforcement Administration	4410-09
Federal Bureau of Investigation	4410-02
Immigration and Naturalization Service	4410-10
Law Enforcement Assistance Administration	4410-18
Parole Commission	4410-01
Prisons Bureau	4410-05
Labor Department:	
Employment Standards Administration	4510-27
Employment and Training Administration	4510-30
Federal Contract Compliance Programs Office	4510-27
International Labor Affairs Bureau	4510-28
Labor-Management Services Administration	4510-29
Labor Statistics	4510-24
Mine Safety and Health Administration	4510-43
Occupational Safety and Health Administration (Standards)	4510-26
Office of the Secretary (Administrative Law Judges)	4510-20
Office of the Secretary (Audit and Investigations)	4510-21
Office of the Secretary (Office of Information)	4510-22
Office of the Secretary	4510-23
Pension and Welfare Benefits Program	4510-29
Wage and Hour Division	4510-27

Department	Billing Code
Legal Services Corporation	6820-35
Libraries and Information Science, National Commission	7527-01
Library of Congress:	
Copyright Office	1410-03
Copyright Royalty Tribunal	1410-01
Management and Budget Office	3110-01
Manpower Policy, National Commission	4510-30
Marine Mammal Commission	6820-31
Merit Systems Protection Board	6325-01
Metric Board	6820-94
National Aeronautics and Space Administration	7510-01
National Capital Planning Commission	7520-01
National Credit Union Administration	7535-01
National Labor Relations Board	7545-01
National Mediation Board	7550-01
National Science Foundation	7555-01
National Security Council	3150-01
National Transportation Policy Safety Commission	6820-36
National Transportation Safety Board	4910-58
Navajo and Hopi Indian Relocation Commission	4310-HB
Neighborhoods, National Commission	7532-01
Nuclear Regulatory Commission	7590-01
Occupational Safety and Health Review Commission	7600-01
Ohio River Basin Commission	8410-01
Overseas Private Investment Corporation	3210-01
Panama Canal Company	3640-01
Pennsylvania Avenue Development Corporation	7630-01
Pension Benefit Guaranty Corporation	7708-01
Personnel Management Office	6325-01
Postal Rate Commission	7715-01
Postal Service	7710-12
President's Commission on Pension Policy	6820-29
President's Commission on World Hunger	6820-97
Railroad Retirement Board	7905-01
Railway Association, U.S	8240-01
Renegotiation Board	7910-01
Science and Technology Policy, Office of	3170-01
Securities and Exchange Commission	8010-01
Selective Service System	8015-01
Small Business Administration	8025-01
Smithsonian Institution	8030-03
State Department:	
Agency for International Development	4710-02
Office of the Secretary	4710-01
Office of the Secretary	4710-05
Office of the Secretary	4710-06
Office of the Secretary	4710-07
Office of the Secretary	4710-08
Office of the Secretary	4710-09
Office of the Secretary	4710-10
Office of the Secretary	4710-11
Office of the Secretary	4710-15
Office of the Secretary	4710-16
Office of the Secretary	4710-17
Office of the Secretary	4710-18
Office of the Secretary	4710-19
Susquehanna River Basin Commission	7040-01
Technology Assessment, Office of	1630-01
Tennessee Valley Authority	8120-01
Textile Agreements, Committee for the Implementation	3510-25
Trade Negotiations, Special Representative for	3190-01
Transportation Department:	
Coast Guard	4910-14
Federal Aviation Administration	4910-13
Federal Highway Administration	4910-22
Federal Railroad Administration	4910-06
Materials Transportation Bureau	4910-60
National Highway Traffic Safety Administration	4910-59
Office of the Secretary	4910-62
Research and Special Programs Administration	4910-62
St. Lawrence Seaway Development Corporation	4910-61
Urban Mass Transportation Administration	4910-57
Treasury Department:	
Alcohol, Tobacco and Firearms Bureau	4810-31
Comptroller of the Currency	4810-33
Customs Service	4810-22
Engraving and Printing	4810-34
Federal Law Enforcement Training Center	4810-32
Government Finance Operations (Fiscal Service)	4810-35
Internal Revenue Service	4830-01
Mint, Bureau	4810-37
Office of the Secretary	4810-25
Public Debt (Fiscal Service)	4810-40
Revenue Sharing	4810-28
Secret Service	4810-42
Truman, Harry S., Scholarship Foundation	6115-02
U.S. Circuit Judge Nominating Commission	4410-01
Veterans Administration	8320-01
Wage and Price Stability Council	3175-01
Water Resources Council	8410-01
White House Office	3195-01

BILLING PROCEDURES FOR AGENCIES

As part of the billing procedures announced in the FEDERAL REGISTER of August 24, 1977, and to insure that each agency is correctly billed for only its own documents, the Office of the Federal Register requests agencies to insert the proper billing code on all of their documents. The six-digit billing code should be typed or handwritten in ink at the top of the first page on all three copies of documents submitted to the Office of the Federal Register for publication, as follows:

BILLING CODE: 0000-00

The list of agency billing codes assigned by the Government Printing Office follows:

Department	*Billing Code*
ACTION	6050-01
Actuaries, Joint Board for the Enrollment	4810-25
Administrative Conference of the United States	6110-01
Agriculture Department:	
Agricultural Marketing Service	3410-02
Agricultural Research Service	3410-03
Agricultural Stabilization and Conservation Service	3410-05
Animal and Plant Health Inspection Service	3410-34
Commodity Credit Corporation	3410-05
Contract Appeals Board	3410-25
Cooperative State Research Service	3410-22
Economic Research Service	3410-18
Equal Opportunity Office	3410-95
Extension Service	3410-09
Farmer's Home Administration	3410-07
Federal Crop Insurance Corporation	3410-08
Food and Nutrition Service	3410-30
Food Safety and Quality Service	3410-DM
Foreign Agricultural Service	3410-10
Forest Service	3410-11
Office of General Sales Manager	3410-21
Office of Management and Finance	3410-90
Office of Operations	3410-98
Office of the Secretary	3410-01
Rural Electrification Administration	3410-15
Science and Education Administration	3410-03, 3410-22
Soil Conservation Service	3410-16
Air Quality National Commission	6820-98
American Battle Monuments Commission	6120-01
Architectural and Transportation Barriers Compliance Board	4110-12
Arms Control and Disarmament Agency	6820-32
Arts and Humanities, National Foundation:	
National Endowment for the Arts	7537-01
National Endowment for the Humanities	7536-01
Blind and Other Severely Handicapped, Committee for Purchase From	6820-33
Central Intelligence Agency	6310-02
Civil Aeronautics Board	6320-01
Civil Rights Commission	6335-01
Commerce Department:	
Bureau of Economic Analysis	3510-06
Census Bureau	3510-07
Coastal Plains Regional Commission	3510-36
Economic Advisory Board	3510-17
Economic Development Administration	3510-24
Foreign Trade Zones Board	3510-25
Industry and Trade Administration	3510-25
Maritime Administration	3510-15
National Fire-Prevention and Control Administration	3510-49
National Oceanic and Atmospheric Administration (National Marine Fisheries Service)	3510-22
National Oceanic and Atmospheric Administration (Coastal Zone Management)	3510-08
National Oceanic and Atmospheric Administration	3510-12
National Technical Information Service	3510-04
Office of Assistant Secretary for Science and Technology	3510-18
Office of the Secretary	3510-17
Office of the Secretary	3510-19
Office of the Secretary	3510-20
Office of the Secretary	3510-26
Patents and Trademark Office	3510-16
Standards, National Bureau	3510-13
Telecommunications Office	3510-60
Travel Service	3510-11
Commodity Futures Trading Commission	6351-01
Community Services Administration	6315-01
Consumer Product Safety Commission	6355-01
Cost Accounting Standards Board	1620-01

Department	*Billing Code*
Defense Department:	
Air Force Department	3910-01
Army Department (Adjutant General Center)	3710-08
Defense Civil Preparedness Agency	3810-01
Defense Communications Agency	3610-05
Defense Intelligence Agency	3810-70
Defense Investigative Service	3810-70
Defense Logistics Agency	3620-01
Defense Mapping Agency	3810-70
Defense Nuclear Agency	3810-70
Defense Supply Agency	3810-70
Engineers Corps/Civil Works	3710-92
Engineers Corps	3710-FR
Engineers Corps	3710-FS
Engineers Corps	3710-FT
Engineers Corps	3710-GA
Engineers Corps	3710-GB
Engineers Corps	3710-GC
Engineers Corps	3710-GE
Engineers Corps	3710-GF
Engineers Corps	3710-GH
Engineers Corps	3710-GK
Engineers Corps	3710-GL
Engineers Corps	3710-GM
Engineers Corps	3710-GN
Engineers Corps	3710-GP
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Engineers Corps	3710-GT
Engineers Corps	3710-GW
Engineers Corps	3710-GX
Navy Department	3810-01
Navy Department	3810-70
Navy Department (Judge Advocate General)	3810-71
Office of the Secretary	3810-70
Delaware River Basin Commission	6360-01
Economic Advisers Council	3120-01
Economic Opportunity, National Advisory Council	6820-42
Employment and Unemployment Statistics, National Commission	4510-23
Energy Department:	
Bonneville Power Administration	6450-01
Economic Regulatory Administration	6450-01
Energy Information Administration	6450-01
Energy Research Office	6450-01
Energy Technology Office	6450-01
Environment Office	6450-01
Federal Energy Regulatory Commission	6450-01
Hearings and Appeals Office	6450-01
Intergovernmental and Institutional Relations Office	6450-01
Office of the Special Council for Compliance	6450-01
Office of the Secretary	6450-01
Southeastern Power Administration	6450-01
Southwestern Power Administration	6450-01
Western Area Power Administration	6450-01
Environmental Protection Agency	6560-01
Environmental Quality Council	3125-01
Equal Employment Opportunity Commission	6570-06
Export-Import Bank of the United States	6690-01
Farm Credit Administration	6705-01
Federal Communications Commission	6712-01
Federal Council on the Arts and Humanities	7537-01
Federal Deposit Insurance Corporation	6714-01
Federal Election Commission	6715-01
Federal Home Loan Bank Board	6720-01
Federal Home Loan Mortgage Corporation	6720-02
Federal Maritime Commission	6730-01
Federal Mediation and Conciliation Service	6732-01
Federal Mine Safety and Health Review Commission	6820-12
Federal Pay, Advisory Commission	6820-43
Federal Reserve System/Board of Governors	6210-01

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